

MONTANA LEGISLATIVE HISTORY

Chapter 442 1997

Bill H 134 S _____

Original bill & history ☒ c

H. Committee on State Admin

S. Committee on Ed & Cult. Resources
State Admin

Hearing Date(s) 1/16 _____ c

Hearing Date(s) 3/05 _____ c

ex 2/08 _____ c

ex 3/06 _____ c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

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RETURNED TO HOUSE
 2/19 SIGNED BY SPEAKER
 2/20 SIGNED BY PRESIDENT
 2/21 TRANSMITTED TO GOVERNOR
 2/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 38
 EFFECTIVE DATE: 07/01/97

HB 133 INTRODUCED BY MENAHAN

LC0403 DRAFTER: KURTZ

PROHIBIT HARASSMENT OF ANGLERS
 BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE & PARKS

12/30 INTRODUCED
 1/06 FIRST READING
 1/06 REFERRED TO FISH, WILDLIFE & PARKS
 1/16 HEARING
 1/21 TABLED IN COMMITTEE
 2/27 MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
 DIED IN COMMITTEE

HB 134 INTRODUCED BY J. JOHNSON, ET AL. LC0413 DRAFTER: HEFFELFINGER

REVISE THE LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM
 BY REQUEST OF TEACHERS' RETIREMENT BOARD

12/31	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO STATE ADMINISTRATION		
1/13	FISCAL NOTE RECEIVED		
1/14	FISCAL NOTE PRINTED		
1/16	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	91	8
2/12	3RD READING PASSED	92	8
	TRANSMITTED TO SENATE		
2/13	FIRST READING		
2/13	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/19	REFERRED TO STATE ADMINISTRATION		
3/05	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/13	2ND READING CONCURRED	50	0
3/14	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	98	2
4/11	3RD READING CONCURRED AS AMENDED	89	8
4/19	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 442		
	EFFECTIVE DATE: 04/30/97		

HB 135 INTRODUCED BY SMITH

LC0351 DRAFTER: LANE

REVISE THE LAWS GOVERNING THE BOARD OF PARDONS AND PAROLE
 BY REQUEST OF BOARD OF PARDONS & PAROLE

12/31 INTRODUCED
 1/03 FISCAL NOTE REQUESTED
 1/06 FIRST READING

HOUSE BILL NO. 134

INTRODUCED BY J. JOHNSON

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM; DEFINING "TERMINATION", "TERMINATION PAY", AND "VESTED"; PROVIDING TERMINATION PAY OPTIONS; CLARIFYING THAT TEACHERS' RETIREMENT SYSTEM PROVISIONS MUST COMPLY WITH FEDERAL TAX LAWS REGARDING QUALIFIED PLAN STATUS; CLARIFYING THE DISTRIBUTION OF BENEFITS TO BENEFICIARIES; CLARIFYING CERTAIN DEFINITIONS; CLARIFYING DEFINITIONS RELATED TO COMPENSATION USED TO DETERMINE BENEFITS; CLARIFYING THAT FAMILY LAW ORDERS AFFECTING DISTRIBUTION OF BENEFITS MAY NOT BE ENTERED UNLESS APPROVED BY THE TEACHERS' RETIREMENT BOARD; GENERALLY REVISING LANGUAGE REFERRING TO ANNUITIES; REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; CLARIFYING CERTAIN SERVICE PROVISIONS; CLARIFYING DISPOSITION OF UNCLAIMED ACCOUNTS; REVISING CERTAIN WITHDRAWAL AND OPTIONAL ALLOWANCE PROVISIONS; REVISING PAYMENT COMMENCEMENT PROVISIONS; REVISING CERTAIN DISABILITY RETIREMENT AND REINSTATEMENT FROM DISABILITY PROVISIONS; CLARIFYING POSTRETIREMENT PROVISIONS; AMENDING SECTIONS 19-20-101, 19-20-104, 19-20-208, 19-20-305, 19-20-409, 19-20-412, 19-20-503, 19-20-602, 19-20-603, 19-20-605, 19-20-702, 19-20-703, 19-20-706, 19-20-711, 19-20-712, 19-20-713, 19-20-715, 19-20-801, 19-20-804, 19-20-902, 19-20-903, 19-20-904, 19-20-905, 19-20-1001, AND 19-20-1002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] gives the teachers' retirement board authority to adopt administrative rules.

The legislature finds that it is beneficial to maintain the teachers' retirement system as a qualified plan under Internal Revenue Code regulations. Therefore, it is the intent of the legislature that statutory provisions governing the teachers' retirement system be subject to federal tax law applicable to public retirement plans. The legislature intends that the board make rules useful and necessary to ensure

1 compliance with federal law and necessary to maintain a federal tax qualified plan status.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4
5 **NEW SECTION. Section 1. Earned compensation -- part-time service.** The earned compensation
6 of a member who retired under 19-20-802 or 19-20-804 and had less than 3 consecutive years of full-time
7 service during the 5 years preceding the member's retirement is the compensation that the member would
8 have earned in the final 3 years had the member's part-time service been full-time service. To determine
9 the compensation that the member would have earned, the compensation reported must be divided by the
10 part-time service credited to the member's account.

11
12 **NEW SECTION. Section 2. Termination pay.** If a member receives termination pay at the time of
13 termination and elects to retire at that time, the member shall select one of the following options:

14 (1) The member may use termination pay in the calculation of the member's average final
15 compensation. The member and the employer shall pay contributions to the retirement system as
16 determined by the board to adequately compensate the system for the additional retirement benefit. The
17 contributions must be made at the time of termination.

18 (2) The member may use a yearly amount of termination pay added to each of the 3 consecutive
19 years' salary used in the calculation of the member's average final compensation. To determine the amount
20 of termination pay used in the calculation of average final compensation, termination pay must be divided
21 by the total number of years of creditable service to determine a yearly amount. The member and the
22 employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602
23 and 19-20-605(1).

24 (3) The member may exclude the termination pay from the average final compensation. No
25 contribution is not required of either the member or the employer, and any contributions made under
26 19-20-602 and 19-20-605 must be refunded.

27
28 **NEW SECTION. Section 3. Retaining qualified plan status -- board rulemaking authority.** If a
29 provision in this chapter conflicts with a qualification requirement in section 401 of the Internal Revenue
30 Code applicable to public retirement systems and consequent federal administrative regulations, the

provision is either ineffective or must be interpreted to conform to the federal qualification requirements and allow the system to retain tax-deferred status. The board may adopt rules to implement this section.

NEW SECTION. Section 4. Effect of no designation or no surviving beneficiary. (1) If a beneficiary is not designated or if no designated beneficiary survives the payment recipient, the estate of the payment recipient is the beneficiary and is entitled to any lump-sum payment or retirement benefit accrued but not received prior to the death of the payment recipient. If the estate would not be probated but for the amount due from the retirement system, all of the amount due must be paid directly, without probate, to the surviving next of kin of the deceased or to the guardians of the survivor's estate, share and share alike.

(2) Payment must be made in the same order in which the following groups are listed:

- (a) husband or wife;
- (b) children;
- (c) father and mother;
- (d) grandchildren;
- (e) brothers and sisters; or
- (f) nieces and nephews.

(3) A payment may not be made to a person included in any of the groups listed in subsection (2) if at the date of payment there is a living person in any of the groups preceding the group of which the person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon a form supplied by the system, that there are no living individuals in the groups preceding the group of which the person is a member and that the estate of the deceased will not be probated.

(4) The payment must be in full and complete discharge and acquittance of the board and system on account of the member's or payment recipient's death.

Section 5. Section 19-20-101, MCA, is amended to read:

"19-20-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings fund, together with interest. Regular interest must be computed and allowed to provide a

benefit at the time of retirement.

(2) "Actuarial equivalent" means a benefit of equal value when computed, with regular interest on the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually.

(3) "Annuity" means the payments made to a beneficiary for life that are derived from a member's accumulated contributions.

(4) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.

(5) (a) "Average final compensation" means the average of the a member's earned compensation of a member during the 3 consecutive years of full-time service or as provided under [section 1] that yields the highest average and on which contributions have been made as required by 19-20-602 or 19-20-604. If amounts defined in subsection (6)(b) have been converted by an employer to earned compensation for all members and have been continuously reported as earned compensation in a like amount for at least 5 fiscal years preceding the member's retirement, the amounts may be included in the calculation of average final compensation. If amounts defined in subsection (6)(b) have been reported as earned compensation for less than 5 fiscal years or if the member has been given the option to have amounts reported as earned compensation, any amounts reported in the 3-year period that constitute average final compensation must be included in average final compensation as provided under [section 2(2)].

(b) ~~In determining a member's retirement allowance under 19-20-802 or 19-20-804, the compensation for each year of the 3 years that make up the average final compensation may not be greater than 110% of the previous year's compensation included in the calculation of average final compensation or the earned compensation reported to the retirement system, whichever is less, except as provided by rule by the retirement board.~~

(c) ~~Earned compensation in excess of the amount specified in subsection (5)(b) is considered termination pay as provided in subsection (5)(d).~~

(d) ~~If the earned compensation includes any termination pay, the member shall select one of the following options:~~

(i) ~~use the total termination pay in the calculation of the average final compensation. The member and the employer shall pay contributions to the retirement system as are determined by the board.~~

adequately compensate the system for the additional retirement benefit. The contributions must be made at the time the termination pay is received.

(ii) ~~use a yearly amount of termination pay added to each of the 3 consecutive years' salary used in the calculation of the average final compensation if the member has 4 or more years of service with the employer from which the termination pay was received. The amount of compensation used in the calculation of average final compensation must be divided by the total number of years of creditable service to determine a yearly amount. The member and the employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602(1) and 19-20-605(1).~~

(iii) ~~exclude the termination pay from the average final compensation. No contribution is required of either the employer or member, and contributions made under 19-20-602 and 19-20-605 must be refunded.~~

(c) ~~For purposes of this subsection (5), termination pay includes any form of termination pay or any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit, or any other payment for time not worked other than compensation received while on sick leave or authorized leave of absence.~~

(6)(4) "Beneficiary" means a person in receipt of a pension, annuity, retirement allowance, or other benefit provided by the retirement system formally designated by a member, retiree, or benefit recipient to receive a retirement allowance or payment upon the death of the member, retiree, or benefit recipient.

(7)(5) "Creditable service" is that service defined by 19-20-401.

(8)(6) (a) "Earned compensation" means, except as limited by 19-20-715, remuneration, exclusive of maintenance, allowance, and expenses, paid for services by a member out of funds controlled by an employer, ~~as defined under this chapter, before any tax-deferred pretax deductions allowed under the Internal Revenue Code are deducted from the member's compensation, exclusive of maintenance, allowances, and expenses. The earned compensation is remuneration that would have been paid to a member for full time service but was not paid to the member because of a reduction in compensation, pay, or salary due to a temporary absence, provided that the retirement system receives the contribution required by 19-20-413. The earned compensation of a member who had less than 3 consecutive years of full time service during the 5 years preceding the member's retirement is the compensation, pay, or salary that the member would have earned had the member's part time service been full time service. The earned compensation of a member who is awarded a disability retirement allowance prior to the completion of a~~

1 full year is the compensation, pay, or salary that the member would have received had the member
 2 completed the full year, except that any termination pay, as defined in subsection (5)(c), received by the
 3 member is limited to the amount actually paid and is not the amount that the member would have earned
 4 had the member completed the full year.

5 (b) Earned compensation does not mean:

6 (i) direct employer premium payments on behalf of members for health or dependent care expense
 7 accounts or any employer contribution for health, medical, pharmaceutical, disability, life, vision, dental
 8 or any other insurance;

9 (ii) any direct employer payment or reimbursement for professional membership dues; maintenance
 10 housing; day care; or automobile, travel, lodging, or entertaining expenses; or any similar payment for any
 11 form of maintenance, allowance, or expenses;

12 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits; or

13 (iv) any noncash benefit provided by an employer to or on behalf of an employee.

14 (c) Earned compensation does not include lump-sum payments in respect to unused, accumulated
 15 sick or annual leave, excess leave balance payments, or bonuses or any sort of early retirement incentive
 16 or severance payment contingent upon the employee terminating employment.

17 (d) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the
 18 same or like amount as a pretax deduction is considered a fringe benefit and not earned compensation.

19 ~~(9)(7)~~ "Employer" means the state of Montana, the trustees of a district, or any other agency or
 20 subdivision of the state that employs a person who is designated a member of the retirement system.

21 ~~(10)(8)~~ "Full-time service" means service that is full-time and that extends over a normal academic
 22 year of at least 9 months. With respect to those members employed by the office of the superintendent
 23 of public instruction, any other state agency or institution, or the office of a county superintendent, full-time
 24 service means service that is full-time and that totals at least 9 months in any year.

25 ~~(11)(9)~~ "Member" means a person who has an individual account in the annuity savings fund. An
 26 active member is a person included under the provisions of 19-20-302. An inactive member is a person
 27 included under the provisions of 19-20-303.

28 ~~(12)(10)~~ "Part-time service" means service that is less than full-time or that totals less than
 29 months in ~~any~~ a normal academic year. Part-time service must be credited in the proportion that the actual
 30 time worked ~~bears~~ compares to full-time service.

~~(13)~~ "Pension" means the payments made to a beneficiary for life that are paid out of the pension accumulation fund.

~~(14)~~ "Pension reserve" means the present value of all payments to be made on account of a pension computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.

~~(15)~~ (11) "Prior service" means employment of the same nature as service defined in subsection ~~(20)~~ but rendered before September 1, 1937.

~~(16)~~ (12) "Regular interest" means interest at 4% ~~per annum~~ a year compounded annually or at ~~such~~ other a rate as may be set by the retirement board in accordance with 19-20-501(2).

~~(17)~~ (13) "Retirement allowance" means ~~the annuity plus the pension~~ a payment due monthly to a person who has qualified for service or disability retirement or due to a beneficiary as provided in 19-20-1001.

~~(18)~~ (14) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

~~(19)~~ (15) "Retirement system" or "system" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

~~(20)~~ (16) "Service" means the performance of instructional duties or related activities that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(17) "Termination" means that the member has severed the employment relationship with the member's employer and all, if any, payments due upon termination of employment, including but not limited to accrued sick and annual leave balances, have been paid to the member.

(18) "Termination pay" means any form of termination pay made at the time of retirement or death; payments contingent on the employee terminating employment; any lump-sum payment for deferred compensation, sick leave, or accumulated vacation credit; or any other payment for time not worked other than compensation received while on sick leave or authorized leave of absence.

(19) "Vested" means that a member has been credited with at least 5 full years of membership service upon which contributions have been made, as required by 19-20-602 and 19-20-605, and who has a right to a future retirement benefit."

Section 6. Section 19-20-104, MCA, is amended to read:

"19-20-104. **Guarantee by state.** Regular interest charges payable, the creation and maintenance

1 of reserves in the pension accumulation fund, and the maintenance of ~~annuity reserves~~ accumulated
2 contributions in the annuity ~~reserve~~ savings fund, as provided for in this chapter, and the payment of all
3 ~~annuities, pensions~~ retirement allowances, refunds, and other benefits granted under the retirement system
4 are obligations of the state of Montana."

5
6 **Section 7.** Section 19-20-208, MCA, is amended to read:

7 **"19-20-208. Duties of employer.** Each employer shall:

8 (1) pick up the contribution of each employed member ~~employed by him~~ at the rate prescribed by
9 19-20-602 and transmit the contribution each month to the ~~secretary~~ executive director of the retirement
10 board;

11 (2) ~~pay~~ transmit to the ~~secretary~~ executive director of the retirement board the employer's
12 contribution prescribed by 19-20-605, at the time that the employee contributions are transmitted to the
13 ~~secretary~~;

14 (3) keep records and, as required by the retirement board, furnish information to the board that
15 required in the discharge of the board's duties;

16 (4) upon the employment of a person who is required to become a member of the retirement
17 system, inform ~~him~~ the person of ~~his~~ the rights and obligations relating to the retirement system;

18 (5) whenever applicable, inform an employee of ~~his~~ the right to elect to participate in the optional
19 retirement program under Title 19, chapter 21;

20 (6) at the request of the retirement board, certify the names of all persons who are eligible for
21 membership or who are members of the retirement system; ~~and~~

22 (7) notify the retirement board of the employment of a person eligible for membership and forward
23 ~~his~~ the person's membership application to the board;

24 (8) if the employer has converted to earned compensation amounts excluded from earned
25 compensation, for each retiring member, certify to the board the amounts reported to the system in each
26 of the 5 years preceding the member's retirement."

27
28 **Section 8.** Section 19-20-305, MCA, is amended to read:

29 **"19-20-305. Alternate payees -- family law orders.** (1) A participant in a retirement system may
30 have the participant's rights modified or recognized by a family law order.

(2) For purposes of this section:

(a) "participant" means a member, retiree, or an actual or potential beneficiary, survivor, or contingent annuitant of the retirement system designated pursuant to this chapter; and

(b) "family law order" means a certified copy of a judgment, decree, or order of a court ~~of~~ with competent jurisdiction ~~under Title 40~~ concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section.

(3) A family law order must identify an alternate payee by full name, current address, and social security number. An alternate payee's rights and interests granted in compliance with this section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

(4) A family law order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system.

(5) A family law order may only provide for payment to an alternate payee as follows:

(a) Service retirement benefit payments or withdrawals of member contributions may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

(b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate payees is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.

(d) Payments must be limited to the life of the appropriate participant. The duration of payments to an alternate payee may be further limited only to a specified maximum time, the life of the alternate payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific

1 amount per month if the number of payments is specified. The alternate payee's rights and interests survive
2 the alternate payee's death and may be transferred by inheritance.

3 (e) The participant may be required to choose a specified form of benefit payment or designate
4 beneficiary or contingent annuitant if the retirement system allows for that option.

5 (6) The board may assess a participant or an alternate payee for all costs of reviewing and
6 administering a family law order, including reasonable attorney fees. The board may adopt rules to
7 implement this section.

8 (7) A court may not enter a family law order relating to payments by the system unless terms of
9 the proposed order have been approved by the board."

10
11 **Section 9.** Section 19-20-409, MCA, is amended to read:

12 **"19-20-409. Transfer of service credits and contributions from public employees' retirement**
13 **system.** (1) An active member may at any time before retirement make a written election with the
14 retirement board to qualify in the teachers' retirement system all of the member's previous creditable
15 service in the public employees' retirement system. The amount that must be paid to the retirement system
16 to qualify this service under this section is the sum of subsections (2) and (3).

17 (2) ~~In addition to the amounts directly paid or transferred by the member under subsection (3), the~~
18 The public employees' retirement system shall transfer to the teachers' retirement system an amount equal
19 to 72% of the amount payable by the member.

20 (3) The member shall pay either directly or by transferring contributions on account with the public
21 employees' retirement system an amount equal to the member's accumulated contributions at the time that
22 active membership was terminated, plus accrued interest. Interest must be calculated from the date of
23 termination until payment is received by the retirement system, based on the interest tables in use by the
24 public employees' retirement system.

25 (4) A member who qualifies service from the public employees' retirement system in the teachers'
26 retirement system must complete 5 years of membership service in the teachers' retirement system to
27 qualify or purchase military service, out-of-state teaching service, employment while on leave, and private
28 school employment.

29 (5) The retirement board shall determine the service credits that may be transferred.

30 (6) If an active member who also has creditable service in the public employees' retirement system

before becoming a member of the teachers' retirement system dies before qualifying this service in the teachers' retirement system and if the member's service credits from both systems, when combined, entitle the member's beneficiary to a death benefit, the payment of the death benefit is the liability of the teachers' retirement system. Before payment of the death benefit, the public employees' retirement board must transfer to the teachers' retirement system the contributions necessary to qualify this service in the teachers' retirement system as provided in subsections (2) and (3).

(7) If the retirement board determines that an individual's membership was erroneously classified and reported to the public employees' retirement system, the member's accumulated contributions and service, together with employer contributions plus interest, must be transferred to the teachers' retirement system and any employee and employer contributions due as calculated in 19-20-602 and 19-20-605, respectively, are the liability of the employee and the employing entity where the error occurred, respectively. For the period of time that the employer contributions are held by the public employees' retirement system, interest paid on employer contributions transferred under this subsection must be calculated at the short-term investment pool rate earned by the board of investments in the fiscal year preceding the transfer request."

Section 10. Section 19-20-412, MCA, is amended to read:

"19-20-412. Election to purchase additional service. (1) (a) Except as provided in subsection (3), a member with 5 years or more of creditable service may make a written election with the retirement board to purchase, for the purpose of calculating the member's retirement allowance, 1 year of additional service for:

(i) each 5 years of service on which contributions have been made as required under the provisions of 19-20-602; and

(ii) each 5 years of membership service as defined in Title 19, chapter 3, for which contributions have been made as required under the provisions of 19-20-409.

(b) A maximum of 5 years of additional service may be purchased under this section. A part-time member may purchase additional service on a prorated basis.

(2) (a) To purchase additional service under this section, a member shall contribute, in a lump-sum payment or in installments as agreed upon by the member and the retirement board, an amount equal to:

(i) the combined employer and employee rate on July 1, 1989, or the combined rate in effect at

the time the member is eligible to purchase the service, whichever date is later, multiplied by the member's earned compensation for full-time service as provided in subsection (2)(b); and

(ii) interest at a rate of 8% compounded annually from July 1, 1989, or from the date at which the member is eligible to purchase the service, whichever date is later.

(b) The earned compensation used in calculating the cost of purchasing additional service under this section is:

(i) for the first year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's fifth year of service, whichever year is later;

(ii) for the second year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 10th year of service, whichever year is later;

(iii) for the third year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 15th year of service, whichever year is later;

(iv) for the fourth year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 20th year of service, whichever year is later; and

(v) for the fifth year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 25th year of service, whichever year is later.

(3) A member who became a member prior to July 1, 1989, and who is eligible to purchase creditable service under 19-3-504, 19-3-510, 19-3-512, 19-3-513, 19-20-402, 19-20-403, 19-20-408, 19-20-410, or 19-20-411 may not purchase additional service under this section unless the member elects in writing to:

(a) waive eligibility to purchase creditable service under sections referred to in subsection (3); and

(b) apply the accumulated contributions made under sections referred to in subsection (3) toward the cost of additional service purchased under this section.

(4) Additional service purchased under this section may not be used to qualify a member for service retirement."

Section 11. Section 19-20-503, MCA, is amended to read:

"19-20-503. Transfer of dormant ~~savings account~~ or unclaimed accounts. (1) The retirement board may, in its discretion, transfer the amount in the annuity savings account of an inactive member to the pension accumulation fund if the account has been dormant for a period of 7 years. ~~No~~ A right of the

member may not be jeopardized by ~~such~~ the transfer, and the amount ~~shall~~ must be transferred back to the member's annuity savings account upon ~~his~~ the member's request.

(2) Retirement benefits must be claimed within 5 years of the date of the member's death. If the named beneficiary for the account or the heirs at law fail to claim and accept the benefits, the member's account balance reverts to the pension trust fund."

Section 12. Section 19-20-602, MCA, is amended to read:

"19-20-602. Annuity savings fund -- member's contribution. The annuity savings fund is a fund in which the contributions for the members to provide for their ~~annuities~~ retirement allowance or benefits must be accumulated in individual accounts for each member. The normal contribution of each member is 7.044% of the member's earned compensation. Contributions to and payments from the annuity savings fund must be made in the following manner:

(1) (a) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under this section for service rendered after June 30, 1985.

(b) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's earned compensation as defined in 19-20-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the retirement board.

(d) The deductions must be made notwithstanding that the minimum compensation provided by law for a member may be reduced by the deductions. Each member is considered to consent to the deductions prescribed by this section, and payment of salary or compensation less the deductions is a complete discharge of all claims for the services rendered by the member during the period covered by the payment, except as to the benefits provided by the retirement system.

(2) In addition to the normal contributions and subject to the approval of the retirement board, a

1 member may redeposit in the annuity savings fund, by a single payment or by an increased rate of
2 contribution, an amount equal to accumulated contributions that the member has previously withdrawn
3 plus interest in the amount the contributions would have earned had the contributions not been withdrawn.

4 (3) The accumulated contributions of a member withdrawn by the member or paid to the member's
5 estate or to the member's designated beneficiary in event of the member's death must be paid from the
6 annuity savings fund. Upon the retirement of a member, the member's accumulated contributions must be
7 transferred from the annuity savings fund to the pension accumulation fund."

8
9 **Section 13.** Section 19-20-603, MCA, is amended to read:

10 **"19-20-603. Withdrawal of accumulated contributions -- options.** ~~Any~~ An inactive member electing
11 to do so or ~~any~~ a person whose membership terminates without a prospect or anticipation that the member
12 will return to work for an employer within 60 days of termination may withdraw the member's or person's
13 accumulated contributions from the annuity ~~account~~ savings fund in the retirement system in accordance
14 with the following provisions:

15 (1) An inactive member under the provisions of ~~subsection (1) or (3) of 19-20-303(1) or (3)~~ may
16 elect, without right of revocation, to withdraw the member's accumulated contributions. If the member
17 does not withdraw the accumulated contributions, the member remains an inactive member of the
18 retirement system with the right to qualify for its benefits.

19 (2) Upon recovery from a disabling illness or separation from the armed forces, ~~any~~ a person
20 qualifying as an inactive member under the provisions of 19-20-303(2) may withdraw the member's
21 accumulated contributions unless the member returns to active membership.

22 (3) ~~Any~~ A person whose membership terminates under the provisions of 19-20-304(4) may
23 withdraw the person's accumulated contributions.

24 (4) Upon written request, a terminating member may have the payment of the all or any portion
25 of the member's accumulated contributions split. The tax-deferred portion of the contributions may be paid
26 directly to an individual retirement account or other rolled over or transferred into another qualified plan
27 designated by the member, and the other. The portion not rolled over or transferred must be paid directly
28 to the terminating member. The board shall provide forms for making the written request. The terminating
29 member is responsible for correctly designating an account or plan eligible to receive the tax-deferred
30 amount in order to continue the tax-deferred status of the amount."

Section 14. Section 19-20-605, MCA, is amended to read:

"19-20-605. Pension accumulation fund -- employer's contribution. The pension accumulation fund is the fund in which the reserves for payment of ~~pensions and annuities~~ retirement allowances and benefits must be accumulated and from which ~~pensions, annuities,~~ retirement allowances and benefits must be paid to ~~or on account of beneficiaries credited with prior service~~ retirees or their beneficiaries. Contributions to and payments from the pension accumulation fund must be made as follows:

(1) Each employer shall pay into the pension accumulation fund an amount equal to 7.47% of the earned compensation of each member employed during the whole or part of the preceding payroll period.

(2) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of 20-9-501.

(3) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's contribution.

(4) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under the budget.

(5) All interest and other earnings realized on the money of the retirement system ~~shall~~ must be credited to the pension accumulation fund, and the amount required to allow regular interest on the annuity savings fund ~~shall~~ must be transferred to that fund from the pension accumulation fund.

(6) ~~All pensions, annuities, and benefits must be paid from the pension accumulation fund.~~

~~(7)~~ The retirement board may, in its discretion, transfer from the pension accumulation fund an amount necessary to cover expenses of administration."

Section 15. Section 19-20-702, MCA, is amended to read:

"19-20-702. Optional allowances. (1) Until the first payment on account of any benefit becomes normally due, any member may elect to receive one of the optional allowances described in subsection (2) in lieu of the normal form of retirement allowance, which is provided for in ~~part 8 of this chapter and~~ 19-20-902 and part 8 of this chapter. If a member dies within 30 days after retirement, the member's election to receive an optional allowance is void and the member's death will be considered as that of an

1 active member.

2 (2) An optional allowance is the actuarial equivalent of the member's service retirement or disability
3 retirement allowance at the time of the member's retirement effective date and provides an allowance
4 payable to the member throughout the member's lifetime and, upon the member's death, an allowance
5 payable to the person that the member nominated by written designation, duly acknowledged and filed with
6 the retirement board at the time of the member's retirement, in accordance with one of the following
7 options:

8 (a) Option A--the optional allowance will be paid to the member throughout the member's lifetime
9 and, upon the member's death, continue throughout the lifetime of the member's designated beneficiary.

10 (b) Option B--the optional allowance will be paid to the member throughout the member's lifetime
11 and upon the member's death, one-half of the optional allowance will be continued throughout the lifetime
12 of the member's designated beneficiary.

13 (c) Option C--the optional allowance will be paid to the member throughout the member's lifetime
14 and upon the member's death, two-thirds of the optional allowance will be continued throughout the
15 lifetime of the member's designated beneficiary.

16 (d) ~~Option D--some other benefit will be paid either to the member or the member's surviving~~
17 ~~designated beneficiary in accordance with provisions approved by the retirement board~~ Period certain
18 life--a retirement allowance will be paid for a certain period of time or for the member's lifetime, whichever
19 is greater.

20 (i) The member shall elect one of the following certain time periods:

21 (A) 10 years if the member is 75 years of age or younger at the time of retirement; or

22 (B) 20 years if the member is 65 years of age or younger at the time of retirement.

23 (ii) At the time of retirement, the member shall file with the board a written nomination of
24 beneficiaries to receive payments if the member dies before the end of the certain period elected. Unless
25 limited by a family law order, the nominated beneficiary may be changed by the member at any time by
26 filing with the board a written notice designating different beneficiaries.

27 (3) (a) Upon written request to the retirement board, a retired member whose effective date of
28 retirement is before October 1, 1993, and who is receiving an optional retirement allowance may designate
29 a different beneficiary, select a different option, or convert the member's optional retirement allowance to
30 a regular retirement or disability allowance if:

- (i) the original beneficiary has died; or
 - (ii) the member has been divorced from the original beneficiary and the original beneficiary has not been granted the right to receive the optional retirement allowance as part of the divorce settlement.
- (b) Upon receipt of the request, the board shall actuarially adjust the member's monthly retirement or disability allowance to reflect the change.
- (4) Effective on the first of the month following ~~receipt of notification of~~ the death of a person nominated as the designated beneficiary under subsection ~~(2)~~ (2)(a), (2)(b), or (2)(c), any optional retirement allowance that is effective after October 1, 1993, will revert to the full normal form of retirement allowance available at the time of retirement. The normal form of retirement allowance available must be increased by the value of any postretirement adjustments received by the member since the effective date of retirement. The retired member may, within 180 days of the death of the designated beneficiary, file a written application with the board to designate a different beneficiary and to select an actuarially equivalent optional allowance. The optional allowance is effective on the first day of the month following receipt of the retiree's application."

Section 16. Section 19-20-703, MCA, is amended to read:

"19-20-703. Payments to be monthly. (1) All pensions and annuities shall retirement allowances must be paid in equal monthly installments.

(2) The retirement allowance may commence:

(a) no earlier than the first day of the month following the member's termination date or on the first day of the month following the date when the member first becomes eligible, whichever date is later; or

(b) if requested by the inactive member in writing:

(i) on the first day of a later month; or

(ii) on the first day of the month following the member's 60th birthday."

Section 17. Section 19-20-706, MCA, is amended to read:

"19-20-706. Exemption from taxation and legal process. Except as provided in 19-20-305, the ~~pensions, annuities,~~ retirement allowances or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-20-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter."

Section 18. Section 19-20-711, MCA, is amended to read:

"19-20-711. Eligibility for postretirement adjustment. (1) Except as provided in subsection (2), ~~member~~ retiree or beneficiary is eligible to receive a postretirement adjustment as provided in 19-20-713 if ~~he~~ the retiree is receiving a:

(a) service retirement allowance ~~and is 55 years of age or older on or before June 30 in the year that the postretirement adjustment is made;~~ or

(b) disability or survivorship allowance.

(2) A ~~member~~ retiree or beneficiary is ineligible to receive a postretirement adjustment under subsection (1) unless ~~he~~ the retiree or beneficiary has been receiving a monthly service, disability, or survivorship allowance for at least 24 consecutive months on or before June 30 in the year that the adjustment is made."

Section 19. Section 19-20-712, MCA, is amended to read:

"19-20-712. Funding for postretirement adjustment -- reserve fund. (1) At the end of each fiscal year, the board shall determine the total investment income ~~earned~~ minus unrealized gains or losses on the retirement fund for that fiscal year. From this amount, the board shall subtract the:

(a) ~~actuarial amount required to fund the retirement system for the fiscal year~~ amount equivalent to the actuarially required investment yield; and

(b) retirement system's administrative and investment expenses for the fiscal year.

(2) (a) From the remainder obtained in subsection (1), the board shall calculate the amount of investment income earned on that portion of the retirement fund balance representing retired members;

(b) The board shall deposit the amount calculated in subsection (2)(a) in a reserve fund.

(3) Subject to the restrictions contained in subsections (4) and (5), the board shall annually use 90% of the amount in the reserve fund provided for in subsection (2)(b) to pay a postretirement adjustment to eligible ~~members~~ retirees or beneficiaries under 19-20-713.

(4) If the amount in the reserve fund is insufficient to provide an average monthly postretirement adjustment of at least \$1 under 19-20-713, an adjustment may not be made in that calendar year.

(5) The amount available for payment of the postretirement allowance is limited to an amount that would provide a percentage increase in the average service, disability, or survivorship allowance of all eligible ~~members~~ retirees, when combined with the postretirement adjustment, that is equal to or less than the percentage increase for the previous calendar year in the annual average consumer price index for urban wage earners and workers compiled by the bureau of labor statistics, United States department of labor, or its successor agency."

Section 20. Section 19-20-713, MCA, is amended to read:

"19-20-713. Payment and amount of postretirement adjustment. (1) Effective January 1 of each year that funds are available under 19-20-712, a ~~member~~ retiree or beneficiary eligible under 19-20-711 shall receive a postretirement adjustment in the form of a monthly benefit payable for life.

(2) The board shall calculate the amount of the postretirement allowance payable to an eligible ~~member~~ retiree or beneficiary by:

(a) dividing the amount available under 19-20-712(3) for payment of the postretirement allowance by the total accumulated years of service for all eligible ~~members~~ retirees and beneficiaries;

(b) multiplying the quotient obtained in subsection (2)(a) by the ~~member's~~ retiree's total years of service;

(c) dividing the product obtained in subsection (2)(b) by a factor for calculating a monthly ~~annuity~~ retirement allowance from actuarial tables adopted by the board; and

(d) applying the provisions contained in subsections (3) and (4).

(3) If a ~~member~~ retiree had elected to receive an optional retirement allowance, the amount of ~~his~~ the retiree's postretirement allowance must be adjusted by the appropriate optional factor.

(4) If more than one beneficiary is receiving a ~~member's~~ retiree's retirement allowance, the postretirement adjustment must be divided in the same manner as the ~~member's~~ retiree's retirement

1 allowance."

2
3 **Section 21.** Section 19-20-715, MCA, is amended to read:

4 **"19-20-715. Compensation limit.** (1) Compensation in excess of the limitations set forth in section
5 401(a)(17) of the Internal Revenue Code must be disregarded for individuals who are not eligible employees.
6 The limitation on compensation for eligible employees may not be less than the amount that was allowed
7 to be taken into account under this chapter on July 1, 1993. For purposes of this section, an eligible
8 employee is an individual who was a member in the retirement system prior to July 1, 1996.

9 (2) In determining a member's retirement allowance under 19-20-802 or 19-20-804,
10 compensation reported in each year of the 3 years that make up the average final compensation may
11 be greater than 110% of the previous year's compensation included in the calculation of average final
12 compensation or the earned compensation reported to the retirement system, whichever is less, except
13 provided by rule by the retirement board.

14 (3) Earned compensation in excess of the amount specified in subsection (2) is considered
15 termination pay and must be included in the calculation of average final compensation as provided
16 [section 2]. "

17
18 **Section 22.** Section 19-20-801, MCA, is amended to read:

19 **"19-20-801. Eligibility for ~~superannuation~~ service retirement.** A member who has at least 5
20 years of creditable service, whose last 5 years of creditable service were in this state, and who has attained
21 the age of 60 or has been credited with full-time or part-time service in 25 or more years may retire from
22 service if ~~he~~ the member has terminated employment in all positions from which the member is eligible to
23 retire and files with the retirement board ~~his~~ a written application setting forth the fact of ~~his~~ the member's
24 retirement."

25
26 **Section 23.** Section 19-20-804, MCA, is amended to read:

27 **"19-20-804. Allowance for ~~superannuation~~ service retirement.** (1) Upon ~~superannuation~~
28 ~~retirement, a termination, an eligible member shall must~~ receive a retirement allowance ~~consisting of~~
29 ~~pension which, together with an annuity, provides a retirement allowance~~ equal to one-sixtieth of his
30 member's average final compensation, as limited by 19-20-715, multiplied by the sum of the number

years of creditable service, service transferred under 19-20-409, and additional service purchased under 19-20-412.

(2) ~~Any~~ Except as provided in subsection (3), a retired member may be employed as a part-time or substitute teacher in Montana and may earn, without loss of retirement benefits, an amount not to exceed the greater of:

(a) one-third of the sum of ~~his~~ the member's average final compensation plus normal annual salary increases for teaching personnel employed by the school district, state agency, political subdivision, or university unit that employed the member at the time of retirement; or

(b) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(3) If an early-retired member under 19-20-802 is reemployed with the same employer within 30 days from the member's effective date of retirement or if the early-retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be terminated."

Section 24. Section 19-20-902, MCA, is amended to read:

"19-20-902. Allowance for disability retirement. (1) Upon retirement for disability, a member must receive a disability retirement allowance equal to the greater of:

~~(1)(a) one-sixtieth of the member's average final compensation multiplied by the sum of the number of years of creditable service, service transferred under 19-20-409, and additional service purchased under 19-20-412, if the retirement allowance exceeds one-fourth of the member's average final compensation;~~
or

~~(2)(b) a pension that, together with the member's annuity, provides a total retirement allowance equal to one-fourth of the member's average final compensation.~~

(2) The earned compensation in the year of termination that is included in the calculation of average final compensation of a member who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or salary that the member would have received under the member's contract had the member completed the full year. Any termination pay received by the member is limited

1 to the amount actually paid and is not the amount that the member would have earned had the member
 2 completed the full year."

3
 4 **Section 25.** Section 19-20-903, MCA, is amended to read:

5 **"19-20-903. Medical examination of disability retiree.** (1) Once each year during the first 5 years
 6 following the retirement of a member on a disability retirement allowance and once in every 3-year period
 7 thereafter, the retirement board may require ~~and, upon the beneficiary's application, shall permit~~ a disability
 8 ~~beneficiary~~ benefit recipient who has not yet attained the age of 60 to undergo a medical examination by
 9 a physician or physicians designated by the retirement board. The examination ~~shall~~ must be made at the
 10 place of residence of the ~~beneficiary~~ benefit recipient or other place mutually agreed upon. ~~Based on the~~
 11 examination, the board shall determine whether the disabled member is unable, by reason of physical or
 12 mental incapacity, to perform the essential elements of the position held by the member when the member
 13 retired. If the board determines that the member is not incapacitated, the member's retirement benefit must
 14 be canceled. If the member disagrees with the board's determination, the member may request the board
 15 to reconsider its action. The request for reconsideration must be made in writing within 60 days after the
 16 receipt of the notice of the status change.

17 (2) A member whose disability retirement benefit is canceled because the board has determined
 18 that the member is no longer incapacitated must be given preference by the member's former employer for
 19 the position held at the time of retirement or for a comparable position that becomes available within 1 year
 20 of cancellation of the disability retirement. The member may agree to accept an offer of employment by the
 21 employer. Employment in any capacity by an employer terminates any right granted by this section. The
 22 fact that the former employee was retired on disability may not prejudice any right to reinstatement to duty
 23 that the former employee may have or claim to have. This section does not affect any requirement for the
 24 former employee to meet or to be able to meet professional certification and licensing standards unrelated
 25 to the previous disability, otherwise necessary for reinstatement to duty.

26 ~~(2)(3)~~ Should ~~If~~ a disability ~~beneficiary~~ benefit recipient who has not yet attained the age of 60
 27 ~~refuse~~ refuses to submit to a medical examination as required in subsection (1), ~~his~~ the recipient's
 28 allowance may be discontinued until ~~his~~ withdrawal of ~~such~~ the refusal, ~~and should his,~~ and if he
 29 ~~continue~~ continues for 1 year, all ~~his~~ rights in and to ~~his~~ a disability pension may be revoked by the
 30 retirement board."

Section 26. Section 19-20-904, MCA, is amended to read:

"19-20-904. Adjustment of allowance. ~~(1) If~~ (1) (a) Except as provided by subsection (1)(b), if a retiree receiving a disability beneficiary retirement allowance is engaged in or is able to engage in a gainful occupation paying more than the difference between the beneficiary's retiree's retirement allowance and the beneficiary's retiree's average final compensation or the difference between the median salary of those members retired during the preceding fiscal year and the beneficiary's retiree's retirement allowance, whichever is greater, the retirement allowance must be reduced to an amount that, together with the amount earnable by the beneficiary retiree, is equal to the beneficiary's retiree's average final compensation or the median salary of those members retired during the preceding fiscal year, whichever is greater.

(b) If a disabled retiree is reemployed with the same employer within 30 days from the member's effective date of retirement or if the retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement benefit must be terminated.

(2) If the ~~beneficiary's~~ disabled retiree's earning capacity is changed later, the ~~beneficiary's~~ retirement allowance may be further modified, but the new allowance may not exceed the retirement allowance originally granted or an amount that, when added to the amount earnable by the ~~beneficiary retiree~~, equals the ~~beneficiary's retiree's~~ average final compensation.

(3) The board may, in its discretion, require a recipient of a disability retirement allowance to annually submit an earning statement and any documentation necessary to support the earnings of the recipient.

~~(4) A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the beneficiary was retired may not become a member of the retirement system while receiving a reduced benefit."~~

Section 27. Section 19-20-905, MCA, is amended to read:

"19-20-905. Cancellation of allowance and restoration of membership. (1) If a disability beneficiary under age 60 is restored to active service at a compensation not less than his average final compensation, his disabled retiree is employed full-time in a capacity that would otherwise meet the eligibility requirements

of active membership, as provided under 19-20-302, the retiree's retirement allowance ~~shall~~ must cease ~~and he~~. If the retiree is employed by an employer covered under this chapter, the retiree shall again become an active member of the retirement system. Any prior service certificate on the basis of which ~~his~~ the member's service was computed at the time of ~~his~~ the member's disability retirement ~~shall~~ must be restored to full force, and upon ~~his~~ the member's subsequent retirement, ~~he shall~~ the member must be credited with ~~such~~ the prior service and all ~~his~~ subsequent service as a member.

(2) If ~~he~~ the member is restored to active ~~service~~ membership on or after the attainment of the age of 55 years, ~~his pension~~ the member's retirement allowance upon subsequent retirement may not exceed the ~~pension~~ retirement allowance that ~~he~~ the member would have received had ~~he~~ the member remained in service during the period of ~~his~~ the member's previous retirement or the sum of the ~~pension which he~~ retirement allowance that the member was receiving immediately prior to ~~his~~ the member's last restoration to service and the ~~pension~~ retirement allowance that ~~he~~ the member would have received on account of ~~his~~ the member's service since ~~his~~ the member's last restoration had ~~he~~ the member entered service at the time as a new member."

Section 28. Section 19-20-1001, MCA, is amended to read:

"19-20-1001. **Allowances for death of member.** (1) If a member dies before retirement, ~~his~~ the member's accumulated contributions ~~shall~~ must be paid to ~~his~~ the member's estate or ~~such~~ to a person ~~he~~ the member may have nominated by a written designation in a manner prescribed by the board and filed with the retirement board prior to ~~his~~ the member's death ~~in the manner prescribed by the board~~.

(2) (a) In lieu of benefits provided for in subsection (1), if the deceased member qualified by reason of service for a retirement benefit, the nominated beneficiary ~~nominated by the deceased member~~ may elect to receive a ~~monthly life annuity~~ retirement allowance. The ~~monthly life annuity shall~~ retirement allowance must be determined as prescribed in 19-20-804(1) and section 5, Chapter 549, Laws of 1981, in the same manner as if the member elected option A provided for in 19-20-702(2)(a).

(b) In the event that payments made to ~~an annuitant~~ a recipient do not equal the amount of the member's accumulated contributions ~~prior to~~ before the ~~annuitant's~~ member's death, the difference between the total ~~annuity~~ retirement allowance payments made and the amount of the accumulated contributions ~~shall~~ at the time of the member's death must be paid to the beneficiary.

(3) If the deceased member had 5 or more years of creditable service and was an active member

in the state of Montana within 1 year ~~prior to his~~ before the member's death, a lump-sum death benefit of \$500 is payable to ~~his~~ the member's designated beneficiary.

(4) If a deceased member had 5 or more years of creditable service and was an active member in the state of Montana within 1 year prior to ~~his~~ the member's death, the sum of \$200 ~~per a month shall~~ must be paid to each minor child of the deceased member until ~~such the~~ the child reaches ~~his 18th birthday~~ 18 years of age."

Section 29. Section 19-20-1002, MCA, is amended to read:

"19-20-1002. Payments upon death of retiree. (1) In the event of the death of a member after retirement, a death benefit of \$500 is payable to ~~his~~ the designated beneficiary.

(2) In the event that payments made to ~~an annuitant~~ a benefit recipient do not equal the amount of the member's accumulated contributions ~~prior to before the annuitant's death~~ member's retirement, the difference between the total retirement allowance paid and the amount of the accumulated contributions ~~shall must~~ be paid to the beneficiary.

(3) If a deceased member had 5 or more years of creditable service and was retired at the time of his death, the sum of \$200 ~~per a month shall~~ must be paid to each minor child of the deceased ~~member~~ retiree until ~~such the~~ the child reaches ~~his 18th birthday~~ 18 years of age."

NEW SECTION. Section 30. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 19, chapter 20, part 8, and the provisions of Title 19, chapter 20, part 8, apply to [section 1].

(2) [Sections 2 and 4] are intended to be codified as an integral part of Title 19, chapter 20, part 7, and the provisions of Title 19, chapter 20, part 7, apply to [sections 2 and 4].

(3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 20, part 1, and the provisions of Title 19, chapter 20, part 1, apply to [section 3].

NEW SECTION. Section 31. Coordination instruction. If ___ Bill No. ___ [LC 0553] is passed and approved and if it includes sections that amend 19-20-711 through 19-20-713, then [sections 18 through 20 of this act], amending 19-20-711 through 19-20-713, are void.

1 **NEW SECTION. Section 32. Retroactive applicability.** [Section 9] applies retroactively, within the
2 meaning of 1-2-109, to all occurrences on or after January 1, 1995.

3

4 **NEW SECTION. Section 33. Effective date.** [This act] is effective on passage and approval.

5

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0134, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill that generally revises the laws relating to the Teachers' Retirement system.

ASSUMPTIONS:

1. HB 134 clarifies certain laws relating to the Teachers' Retirement System benefits provisions and does not enhance benefits. Therefore, there is no increased actuarial or administrative costs.
2. Provisions of the bill that relate to withdrawals and payment of retirement benefits are required to maintain the system's tax qualified status.

FISCAL IMPACT:

Passage of HB 134 will have no fiscal impact on the state.

Dave Lewis 1-11-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John Johnson 1/13/97
JOHN JOHNSON, PRIMARY SPONSOR DATE
Fiscal Note for HB0134, as introduced

H B 134

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MATT DENNY**, on January 16, 1997, at 9:00 a.m., in room 420.

ROLL CALL

Members Present:

Rep. Matt Denny, Chairman (R)
Rep. Matt Brainard, Vice Chairman (Majority) (R)
Rep. Antoinette R. Hagener, Vice Chairman (Minority) (D)
Rep. Darrel Adams (R)
Rep. Haley Beaudry (R)
Rep. Tim Dowell (D)
Rep. Harriet Hayne (R)
Rep. George Heavy Runner (D)
Rep. Norm Mills (R)
Rep. Doug Mood (R)
Rep. William Rehbein, Jr. (R)
Rep. Trudi Schmidt (D)
Rep. Dorothy C. Simpson (D)
Rep. Allan Walters (R)
Rep. Bill Whitehead (D)

Members Excused: Rep. Sam Kitzenberg

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Services Division
Keri Burkhardt, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 76, HB 182, HB 134;
(1/9/97)
Executive Action: HB 85, HB 36, HB 19

HEARING ON HB 76

Sponsor: REP. GAY ANN MASOLO, H.D. 40. EXHIBIT 1.
{Tape: 1; Side: a; Approx. Time Count: .6; Comments: None.}

Proponents:

Elaine Graveley, Clerk and Recorder/ Election Administrator,
Broadwater County.

{Tape: 1; Side: a; Approx. Time Count: 2.4; Comments: None.}

Jean Johnson, citizen, Montana.

{Tape: 1; Side: a; Approx. Time Count: 3.7; Comments: None.}

Robert Throssell, Montana Association of Clerks and Recordors.

{Tape: 1; Side: a; Approx. Time Count: 5.2; Comments: None.}

Opponents: None.

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 8 through 11.3; Comments: None.}

Closing by Sponsor: REP. MASOLO closes.

{Tape: 1; Side: a; Approx. Time Count: 11.4; Comments: None.}

HEARING ON HB 182

Sponsor: REP. GAY ANN MASOLO, H.D. 40. EXHIBIT 2.

{Tape: 1; Side: a; Approx. Time Count: 12.2; Comments: None.}

Proponents:

Joe Kerwin, Deputy of Elections and Legislative Bureau, Secretary of State.

{Tape: 1; Side: a; Approx. Time Count: 13.3; Comments: None.}

Robert Throssell, Montana Association of Clerks and Recordors.

{Tape: 1; Side: a; Approx. Time Count: 25.6; Comments: None.}

Elaine Graveley, Clerk and Recoder/ Election Administrator, Broadwater.

{Tape: 1; Side: a; Approx. Time Count: 7.5; Comments: None.}

Jean Johnson, citizen, Montana. EXHIBIT 3.

{Tape: 1; Side: b; Approx. Time Count: 7.7; Comments: None.}

Opponents: None.

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 12.9 through end of tape; Comments: None.}

Closing by Sponsor: REP. MASOLO closes.

{Tape: 2; Side: a; Approx. Time Count: .4; Comments: None.}

HEARING ON HB 134

Sponsor: REP. JOHN JOHNSON, HD 02.

{Tape: 2; Side: a; Approx. Time Count: 2.9; Comments: None.}

Proponents:

David Senn, Administrator, Teachers' Retirement Division,
Department of Administration. EXHIBIT 4/5.
{Tape: 2; Side: a; Approx. Time Count: 3.8; Comments: None.}

Opponents: None.

Questions From Committee Members and Responses:

{Tape: 2; Side: a; Approx. Time Count: 10.8 through side 2/b;
27.6; Comments: None.}

Closing by Sponsor: REP. JOHNSON closes.

{Tape: 3; Side: a; Approx. Time Count: 1.9; Comments: None.}

EXECUTIVE ACTION ON HB 85

Motion: REP. SIMPSON MOVED DO PASS ON HB 85.

{Tape: 3; Side: a; Approx. Time Count: 12.5; Comments: None.}

Discussion:

{Tape: 3; Side: a; Approx. Time Count: 12.6 through 15.4;
Comments: None.}

Vote: Motion carried 15-1/ REP. REHBEIN voted against the bill.

{Tape: 3; Side: a; Approx. Time Count: 15.4; Comments: None.}

EXECUTIVE ACTION ON HB 36

Motion: REP. DOWELL MOVED DO PASS ON HB 36.

{Tape: 3; Side: a; Approx. Time Count: 15.4; Comments: None.}

Discussion:

{Tape: 3; Side: a; Approx. Time Count: 15.8; Comments: None.}

Amendments: REP. MILLS MOVED TO AMEND, EXHIBIT 6.

{Tape: 3; Side: b; Approx. Time Count: .3; Comments: None..}

Vote: Motion carried 16-0

{Tape: 3; Side: b; Approx. Time Count: 1; Comments: None.}

Motion/Vote: REP. MILLS MOVED DO PASS AS AMENDED/ motion carried
12-4. REP. ADAMS, REP. BRAINARD, REP. MOOD, and REP. WALTERS
voted against the bill.

{Tape: 3; Side: b; Approx. Time Count: 4.5; Comments: None.}

House Bill 134, as Introduced
House, State Administration Committee
January 16, 1997

EXHIBIT 4
DATE 1-16-97
HB 134

HB 134 is truly a housekeeping proposal. This proposal has been developed by the Teachers' Retirement Board with the assistance of individual members and organization representing members. HB 134 does not increase the unfunded liabilities of the Teachers' Retirement System or required an increase in the employee or employer contribution rates. The major areas included in this legislation can be summarized as follows:

1. Clarification of Definitions

A few definitions are no longer used within the body of the teachers' retirement act or, in some cases, are used incorrectly. Two definitions, Average Final Compensation and Earned Compensation included substantive provision of law that do not belong in definitions. Also, these two definitions require further clarification to make clear what may, and what may not, be included in compensation reported to TRS and ultimately used in the calculation of retirement benefits.

Basically, fringe benefits and amounts that selected individuals could elect to have reported in the final years preceding retirement are excluded from the definition of earned compensation and the calculation of benefits. However, fringe benefits are sometimes converted to salary or salary converted to fringe benefits. If this change takes place for all employees of an employer, and the fringe benefits are reported for at least the five years preceding the member's retirement, the additional amounts will be treated as earned compensation and used in the calculation of benefits. If these amounts are not reported for all employees or are reported for less than five years, the additional amounts will be treated as termination pay.

The idea of allowing fringe benefits to be converted to earned compensation and used in the calculation of average final compensation if reported for at least five years, was adopted from the State of North Dakota who was dealing with a similar problem.

2. Qualified Plan Status

In order for any retirement plan to retain its tax-deferred status, the plan must comply with various federal laws and regulations. Often it is required that certain provisions or language be included in the state statutes. House Bill 134 states, that any provision of the system that conflicts with the qualification requirements, is either ineffective or must be interpreted to conform to the qualification requirements. This bill also includes language that specifically covers provisions relating to regulations against making distributions to members who have not terminated employment.

3. Revision of Optional Retirement Benefits

HB 134 will revise the optional retirement benefits available providing members with two new optional retirement allowances. In the future, retirees can elect an option that will guarantee payments for either a 10-year or 20-year period or their lifetime, whichever is longer. All current options will remain available to retiring members.

Optional retirement allowances provide for the continued payment of retirement benefits to a member's beneficiary upon the death of the member. Because the optional benefits are less than what the member would receive for their life only, there is no additional cost to the retirement system. This enhancement will not create any new unfunded liabilities.

4. Clarification of Miscellaneous Provisions

- Clarification of payment of retirement benefits if there are no surviving or designated beneficiaries, and the disposition of dormant or unclaimed accounts. There are currently 31 dormant accounts more than five years old. The average balance owed on these accounts is \$506. TRS has written no less than three letters on each of these accounts and as many as seven times trying to process payment.
- Clarification that family law orders must be submitted to the Retirement Board before signed by the court to help avoid court orders that direct payments that are not allowed under the retirement system.
- Providing for the payment of interest on employer contributions reported in error and transferred between either the Teachers' or Public Employees' Retirement Systems.
- Clarification that the member's full-time salary will be used to calculate the cost to purchase each full year of additional service.
- Providing a one year hiring preference for a disability recipient if their benefit is canceled because the disability recipient is no longer disabled.

House Bill 134, as Introduced
House, State Administration Committee
January 16, 1997

EXHIBIT 5
DATE 1-16-97
HB 134

Teachers' Retirement Housekeeping Proposal

Section by Section Description

Several sections in House Bill 134 contain only changes in terms used to make the act more readable and consistence with the changes in the definition section. Also, substantive language has been moved from the definition section to the body of the act. The following section by section description highlights the most significant amendments.

Section 1. Earned compensation -- Part-time service. This language is currently included in the definition of "earned compensation," 19-20-101(8), MCA. The language is moved to a new section so it can be codified under Part 8 -- "Superannuation Retirement". The language is substantially unchanged with the last sentence added to identify how an equivalent full-time salary is calculated.

Section 2. Termination pay. The provisions regarding termination pay are currently found in the definition section under 19-20-101(5)(d), MCA. This section will be codified under Part 7 -- "Benefits in General". The language remains unchanged.

Section 3. Qualified plan status. Public plans are required to meet certain Internal Revenue Code requirements to maintain their tax-deferred status. This section will codify the requirement in the statutes governing TRS and allow the system to retain its tax-deferred status.

Section 4. Effect of no designation. This section will provide direction in cases where there is no beneficiary designation on file or if the beneficiary does not survive the member. Also beneficiaries will not be required to open an estate if the TRS benefit is the only asset to be distributed.

Section 5. 19-20-101 - Definitions.

Definitions, number (3) - Annuity, (4) - Annuity Reserve, (13) - Pension and (14) - Pension Reserve, have been deleted. These terms are either no longer relevant, used incorrectly or not used at all in the body of the act. These terms are generally replaced with the term "retirement allowance". All other definitions must be renumbered.

Definitions 5 (new 3) - Average Final Compensation, and 8 (new 6) - Earned Compensation, are amended to include the recommendations of a Committee on Compensation of the Board, members of the system and organizations representing members.

- Average Final Compensation will include only compensation as defined under new subsection (6)(a) and will not include any amounts excluded under new subsection (6)(b), unless the employer converts the fringe benefits to compensation for all members and the amounts are reported for the 5 years preceding the member's retirement. If amounts converted to compensation have not been reported for at least 5 years, the amounts will be used in the calculation of average final compensation under termination pay option 2.

- The provision regarding the 10% cap has been moved to Section 21, 19-20-715 MCA, Compensation Limit.

- The definition of termination pay currently found in the definition of average final compensation has been rewritten as definition number 19.

- Earned Compensation is amended to clarify what is reportable -- subsection (6)(a), and to specifically define what is not reportable -- subsection (6)(b).

- Provisions under earned compensation addressing the purchase of compensation not reported due to a temporary absence are incorporated into definition no. 5 (new 3), by reference to 19-20-413. The current language is not necessary.

- Provisions regarding members who do not have 3 consecutive years of full-time service are found in Section 1 of the bill.

- Provisions regarding members who are awarded a disability retirement have been moved to Section 24, 19-20-902 -- Allowance for disability retirement.

Definition 6 (new 4) - "Beneficiary". "Beneficiary" is used within the act to mean either a recipient or the person the member has nominated to receive benefits upon their death. This amendment will conform with the more common usage of the term beneficiary. Where "beneficiary" is used in the body of the act to mean recipient, we have inserted "recipient".

Definition 17 (new 13) - "Retirement allowance". Retirement allowance is used throughout the act to refer to monthly benefits and will replace "annuity" and "pension" wherever those terms are currently used.

New definition 17 - "Termination". We have defined termination as currently used. We also need to define termination to comply with the IRS requirement against in-service distributions.

New definition 18 - "Termination pay". The definition of termination pay is currently found in definition 19-20-101(5)(e).

New definition 19 - "Vested". The term "vested" is used regularly in the act, administrative rules, handbooks, and by staff and members but is not currently defined in statutes.

Section 6. 19-20-104 - Guarantee by state. Amendments are necessary to correct or clarify terms so that their usage complies with new and current definitions.

Section 7. 19-20-208 - Duties of employer. Subsection 8 adds the duty to report, on each member retiring, any fringe benefits that have been converted to earned compensation and reported to TRS.

Section 8. 19-20-305 - Alternate payees -- family law orders. Attorneys and the courts often final family law orders unaware that the terms of the order do not comply with the statute governing payment of benefits under the Teachers' Retirement System. These amendments clarify that the terms of order relating to the payment of benefits must be approved by the board. Also the proposed amendments would allow family law orders to be filed in an out-of-state court with competent jurisdiction.

Section 9. 19-20-409 - Transfer of service credits and contributions from public employees' retirement system. This amendment is necessary to allow for payment of interest to TRS by the PERS Board on employer contributions received by them in error and subsequently transferred to TRS.

Section 10. 19-20-412 - Election to purchase additional service. Amendments clarify that the compensation used to purchase 1 full year must be based on full-time service.

Section 11. 19-20-503 - Transfer of dormant or unclaimed accounts. Accounts of deceased members and retirees are often involve only lump-sum payments and are very small but remain on the books because the heirs fail to come forward to claim the payment. This amendment, together with New Section 4 should take care of any payments due upon the death of the member.

Section 12. 19-20-602 - Annuity saving fund -- member's contribution. This amendment corrects terms so that their usage complies with the new and/or current definitions.

Section 13. 19-20-603 - Withdrawal of accumulated contributions -- options. Amendments are necessary to comply with federal regulations on restrictions against in-service distributions. Members must terminate employment and not plan to return for at least 60 days before they are eligible to withdraw their account. We are also clarifying the current IRS regulations regarding rollovers and transfers.

Section 14. 19-20-605 - Pension accumulation fund -- employer's contribution. Amendments are necessary to replace the terms "annuity" and "pension" with "retirement allowance", and to clarify that benefits are paid to retirees or their beneficiaries.

Section 15. 19-20-702 - Optional allowances. Under Optional Allowances, A, B, or C, if the retiree's designated beneficiary predeceases the retiree, the retiree's benefit will "pop-up" to the full "Normal Form" amount. Statutes do not specify if the retiree may designate a different beneficiary or select a new optional retirement allowance. These amendments will establish a reasonable time limit for nominating a new beneficiary and electing a new option. The amendments require those changes in beneficiary and optional allowance, by members who retired on or after October 1, 1993, must be made within 180 days of the death of the beneficiary.

Option "D" is replaced with "10, and 20 Year Period Certain and Life" options. Under a Period Certain and Life Option, monthly benefits are paid for the retiree's life or for the "Period Certain", whichever is greater. Currently Option D allows the Board to approve "some other benefit". This provision is rarely used and when used, generally a Period Certain and Life option is requested. Members will be better served to be made aware of these options. To comply with IRS restrictions against establishing estates instead of receiving retirement benefits, certain age restrictions must be applied.

Section 16. 19-20-703 - Payments to be monthly. Amendments are necessary to comply with federal restrictions against in-service distributions. The amendments will also codify the current practice of members postponing benefits to a later date or age 60 if they are not eligible for full benefits to avoid early retirement reductions.

Section 17. 19-20-706 - Exemption from taxation and legal process. This amendment replaces the terms "pensions and annuities" with "retirement allowances".

Section 18. 19-20-711 - Eligibility for postretirement adjustment. The Montana Supreme Court ruled that the provision of (1)(a) regarding the age 55 requirement for service retirement recipients was unconstitutional.

Section 19. 19-20-712 - Funding for postretirement adjustment -- reserve fund. Recent accounting changes by the Governmental Account Standards Board require that investments be shown in the financial statements at fair market value. These accounting changes will result in paper gains and losses as the market fluctuates, which were not intended to be recognized when 19-20-712 was enacted. In order for the system to remain actuarially unchanged, only realized investment income can be used to determine the amount available for payment of Postretirement Adjustments (PRA). The amendments assure the calculation of PRA's remains the same as in previous years.

circumstances disability benefits will be canceled, to replace or clarify terms so that their usage complies with new and current definitions and to comply with federal regulations on restrictions against in-service distributions.

Section 28. 19-20-1001 - Allowance for death of member.
Amendments are necessary to replace or clarify terms so that their usage complies with new and current definitions.

Section 29. 19-20-1002 - Payments upon death of retiree.
Amendments are necessary to replace or clarify terms so that their usage complies with new and current definitions.

1-16-97
House State
Admin.

ROLL CALL

NAME	PRESENT	ABSENT	EXCUSED
Rep. Matt Brainard	X		
Rep. Harriet Hayne	X		
Rep. Darrel Adams	X		
Rep. Haley Beaudry	X		
Rep. William Rehbein, Jr.	X		
Rep. Sam Kitzenberg			X
Rep. Allan Walters	X		
Rep. Norm Mills	X		
Rep. Tim Dowell	X		
Rep. Doug Mood	X		
Rep. Trudi Schmidt	X		
Rep. Bill Whitehead	X		
Rep. George Heavy Runner	X		
Rep. Dorothy C. Simpson	X		
Rep. Antoinette R. Hagener	X		
Rep. Matt Denny	X		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 1-16-97

BILL NO. H13134 SPONSOR(S) J. Johnson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dave Sann	TBS	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MATT DENNY**, on February 7, 1997, at 9:00 a.m., in room 420.

ROLL CALL

Members Present:

Rep. Matt Denny, Chairman (R)
Rep. Matt Brainard, Vice Chairman (Majority) (R)
Rep. Antoinette R. Hagener, Vice Chairman (Minority) (D)
Rep. Darrel Adams (R)
Rep. Haley Beaudry (R)
Rep. Tim Dowell (D)
Rep. Harriet Hayne (R)
Rep. George Heavy Runner (D)
Rep. Sam Kitzenberg (R)
Rep. Norm Mills (R)
Rep. Doug Mood (R)
Rep. William Rehbein, Jr. (R)
Rep. Trudi Schmidt (D)
Rep. Dorothy C. Simpson (D)
Rep. Allan Walters (R)
Rep. Bill Whitehead (D)

Members Excused: Rep. George Heavy Runner and Rep. Bill Whitehead.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Services Division
Keri Burkhardt, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 368, SB 124; (1/29/97), HJR 12; (2/5/97).
Executive Action: HB 376, HB 134, HB 372, HJR 12.

HEARING ON HB 368

Opening Statement by Sponsor: REP. MATT BRAINARD, H.D. 62.
{Tape: 1; Side: a; Approx. Time Count: .1; Comments: None.}

Proponents' Testimony:

Rep. Deb Kottel, H.D. 45.

HEARING ON SB 124

EXHIBIT 1.

Opening Statement by Sponsor: SEN. CHRIS CHRISTIAENS, S.D. 23.

EXHIBIT 2.

{Tape: 1; Side: a; Approx. Time Count: 39.6; Comments: None.}

Proponents' Testimony:

Michael O'Conner, Acting Administrator, Public Employees Retirement Division.

EXHIBIT 3.

{Tape: 1; Side: a; Approx. Time Count: 40.9; Comments: None.}

Jerry Williams, Montana Police Protective Association.

{Tape: 1; Side: b; Approx. Time Count: 9.2; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 10.7; Comments: None.}

Closing by Sponsor: SEN. CHRISTIAENS closes.

{Tape: 1; Side: b; Approx. Time Count: 27.4; Comments: None.}

EXECUTIVE ACTION ON HB 376

Discussion: Continued Discussion on HB 376.

{Tape: 1; Side: b; Approx. Time Count: 31.2; Comments: None.}

Motion/Vote: DO PASS AS AMENDED/ motion carried 16-0.

{Tape: 1; Side: b; Approx. Time Count: 40.3; Comments: None.}

EXECUTIVE ACTION ON HB 134

Motion: REP. SIMPSON MOVED DO PASS ON HB 134.

{Tape: 1; Side: b; Approx. Time Count: 41.7; Comments: None.}

Amendments: hb0131401.ash

Motion: REP. MILLS MOVED TO AMEND.

{Tape: 1; Side: b; Approx. Time Count: 41.9; Comments: None.}

Vote: Motion carried 14-0.

{Tape: 1; Side: b; Approx. Time Count: 43.7; Comments: None.}

Motion/Vote: REP. SIMPSON MOVED DO PASS AS AMENDED/ motion carried 16-0.

{Tape: 1; Side: a; Approx. Time Count: 43.8; Comments: None.}

2-7-97
State Admin

ROLL CALL

NAME	PRESENT	ABSENT	EXCUSED
Rep. Matt Brainard	X		
Rep. Harriet Hayne	X		
Rep. Darrel Adams	X		
Rep. Haley Beaudry	X		
Rep. William Rehbein, Jr.	X		
Rep. Sam Kitzenberg	X		
Rep. Allan Walters	X		
Rep. Norm Mills	X		
Rep. Tim Dowell	X		
Rep. Doug Mood	X		
Rep. Trudi Schmidt	X		
Rep. Bill Whitehead			X
Rep. George Heavy Runner			X
Rep. Dorothy C. Simpson	X		
Rep. Antoinette R. Hagener	X		
Rep. Matt Denny	X		

~~EXHIBIT 4~~
~~DATE~~
~~DATE 2/7/97~~
~~HB 134~~
not an exhibit

Amendments to House Bill No. 134
First Reading Copy

Requested by Rep. Mills
For the Committee on House State Administration

Prepared by Sheri Heffelfinger
February 4, 1997

1. Page 17, line 11.
Strike: "180 days"
Insert: "18 months"



HOUSE STANDING COMMITTEE REPORT

February 7, 1997

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 134 (first reading copy -- white) do pass as amended.

Signed: Matt Denny
Matt Denny, Chair

And, that such amendments read:

1. Page 17, line 11.
Strike: "180 days"
Insert: "18 months"

-END-

Committee Vote:
Yes 16, No 0.

217

ump

291136SC.Hgd

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 5, 1997, at 10:00 A.M., in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 134
HB 42
HB 74
Executive Action: SR 14 PASSED (5-1)

HEARING ON HB 134

Sponsor: REP. JOHN JOHNSON, HD 89

Proponents: David Senn, Teachers' Retirement System

Opponents: None

Opening Statement by Sponsor:

REP. JOHN JOHNSON introduced HB 134. He said HB 134 was a house-keeping bill, developed by the Teachers' Retirement Board with the assistance of individual members and organizations representing that organization. It does not represent the unfunded liabilities of the Teachers' Retirement System or

require an increase of the employer contribution rates. He pointed out the definitions and provisions in the bill.

Proponents' Testimony:

David Senn, Executive Director of the Teachers' Retirement System, explained the bill. EXHIBIT 1, 2 {Tape: 1; Side: A; Approx. Time Count: 3.0-10.26; Comments: Mr. Senn outlined the sections in the bill and the change in definitions.} He noted how important it was to be clear on averaging earned compensation. Mr. Senn pointed out how clever people could be in manipulating their average final compensation by increasing earned compensation just in the last three years by having fringe benefits converted to salary. Most of these contributions from fringe benefits have been refused. The School Administrators' Association criticized that there was no where in state law that says you can't do these things. The law needs to be more specific about that is included and what would be a benefit to members.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

SEN. GAGE questioned the definition of step-children. Mr. Senn said it was his understanding that step-children were not included, it was natural or adopted children. {Tape: 1; Side: A; Approx. Time Count: 49.9-63.9; Comments: Clarification of the bill.} SEN. THOMAS asked about whether the new language dealt with the benefits. Mr. Senn clarified that it did deal with the converted fringe benefits to salary for a five year period used in the calculations of salary.

Closing by Sponsor: REP. JOHNSON closed. He reiterated that the bill was a housekeeping bill, with definitions and terminology in line with current practices. The bill does not seek additional monies from either the employee or employer. The terms are now more clearly defined.

HEARING ON HB 42

Sponsor: REP. JOHN COBB, HD 50

Proponents: Debbie Smith, Common Cause

Opponents: None

Opening Statement by Sponsor:

EXHIBIT 3 {Tape: 1; Side: A; Approx. Time Count: 69.6; Comments: Clarification of recent court case by Supreme Court-Common Cause

1
3-5-97
HB 134

House Bill 134, as Introduced

Senate, State Administration Committee
March 5, 1997

HB 134 is truly a housekeeping proposal. This proposal has been developed by the Teachers' Retirement Board with the assistance of individual members and organization representing members. HB 134 does not increase the unfunded liabilities of the Teachers' Retirement System or required an increase in the employee or employer contribution rates. The major areas included in this legislation can be summarized as follows:

1. Clarification of Definitions

A few definitions are no longer used within the body of the teachers' retirement act or, in some cases, are used incorrectly. Two definitions, Average Final Compensation and Earned Compensation included substantive provision of law that do not belong in the definition section. Also, these two definitions require further clarification to make clear what may, and what may not, be included in compensation reported to TRS, and ultimately used in the calculation of retirement benefits.

Fringe benefits and amounts that selected individuals could elect to have reported in the final years preceding retirement are excluded from the definition of earned compensation, and the calculation of benefits. However, fringe benefits are sometimes converted to salary, if this change takes place for all employees of an employer, and the fringe benefits are reported for at least the five years preceding the member's retirement, the additional amounts will be treated as earned compensation and used in the calculation of benefits. If these amounts are not reported for all employees or are reported for less than five years, the additional amounts will be treated as termination pay.

The idea of allowing fringe benefits to be converted to earned compensation and used in the calculation of average final compensation if reported for at least five years, was adopted from the State of North Dakota who was dealing with a similar problem.

2. Qualified Plan Status

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This bill also includes language that specifically covers provisions relating to federal regulations against making distributions to members who have not terminated employment.

3. Revision of Optional Retirement Benefits

HB 134 will revise the optional retirement benefits available, providing members with two new optional retirement allowances. In the future, retirees can elect an option that will guarantee payments for either a 10-year or 20-year period or their lifetime, whichever is longer. All current options, Normal Form, A, B and C, will remain available to retiring members.

Optional retirement allowances provide for the continued payment of retirement benefits to a member's beneficiary upon the death of the member. Because the optional benefits are less than what the member would receive for their life only, there is no additional cost to the retirement system. This enhancement will not create any new unfunded liabilities.

4. Clarification of Miscellaneous Provisions

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- Clarification that family law orders must be submitted to the Retirement Board before signed by the court to help avoid court orders that direct payments that are not allowed under the retirement system.
- Providing for the payment of interest on employer contributions reported in error and transferred between either the Teachers' or Public Employees' Retirement Systems.
- Clarification that the member's full-time salary will be used to calculate the cost to purchase each full year of additional service.
- Providing a one year hiring preference for a disability recipient if their benefit is canceled because the disability recipient is no longer disabled.

House Bill 134, as Introduced

Senate, State Administration Committee
March 7, 1997

Teachers' Retirement Housekeeping Proposal

Section by Section Description

Several sections in House Bill 134 contain only changes in terms used to make the act more readable and consistence with the changes in the definition section. Also, substantive language has been moved from the definition section to the body of the act. The following section by section description highlights the most significant amendments.

Section 1. Earned compensation -- Part-time service. This language is currently included in the definition of "earned compensation," 19-20-101(8), MCA. The language is moved to a new section so it can be codified under Part 8 -- "Superannuation Retirement". The language is substantially unchanged with the last sentence added to identify how an equivalent full-time salary is calculated.

Section 2. Termination pay. The provisions regarding termination pay are currently found in the definition section under 19-20-101(5)(d), MCA. This section will be codified under Part 7 -- "Benefits in General". The language remains unchanged.

Section 3. Qualified plan status. Public plans are required to meet certain Internal Revenue Code requirements to maintain their tax-deferred status. This section will codify the requirement in the statutes governing TRS and allow the system to retain its tax-deferred status.

Section 4. Effect of no designation. This section will give the Board direction in cases where there is no beneficiary designation on file or if the beneficiary does not survive the member. Also, beneficiaries will not be required to open an estate if the TRS benefit is the only asset to be distributed.

Section 5. 19-20-101 - Definitions.

Definitions, number (3) - Annuity, (4) - Annuity Reserve, (13) - Pension and (14) - Pension Reserve, have been deleted. These terms are either no longer relevant, used incorrectly or not used at all in the body of the act. These terms are generally replaced with the term "retirement allowance". All other definitions must be renumbered.

Definitions 5 (new 3) - Average Final Compensation, and 8 (new 6) - Earned Compensation, are amended to include the recommendations of a Committee on Compensation of the Board, members of the system and organizations representing members.

- Average Final Compensation will include only compensation as defined under new subsection (6)(a) and will not include any amounts excluded under new subsection (6)(b), unless the employer converts the fringe benefits to compensation for all members and the amounts are reported for the 5 years preceding the member's retirement. If amounts converted to compensation have not been reported for at least 5 years, the amounts will be used in the calculation of average final compensation under termination pay option 2.
- The provision regarding the 10% cap has been moved to Section 21, 19-20-715 MCA, Compensation Limit.
- The definition of termination pay currently found in the definition of average final compensation has been rewritten as definition number 18.
- Earned Compensation is amended to clarify what is reportable -- subsection (6)(a), and to specifically define what is not reportable -- subsection (6)(b).
- Provisions under earned compensation addressing the purchase of compensation not reported due to a temporary absence are incorporated into definition no. 5 (new 3), by reference to 19-20-413. The current language is not necessary.
- Provisions regarding members who do not have 3 consecutive years of full-time service are found in Section 1 of the bill.
- Provisions regarding members who are awarded a disability retirement have been moved to Section 24, 19-20-902 -- Allowance for disability retirement.

Definition 6 (new 4) - "Beneficiary". "Beneficiary" is used within the act to mean either a recipient or the person the member has nominated to receive benefits upon their death. This amendment will conform with the more common usage of the term beneficiary. Where "beneficiary" is used in the body of the act to mean recipient, we have inserted "recipient".

Definition 17 (new 13) - "Retirement allowance". Retirement allowance is used throughout the act to refer to monthly benefits and will replace "annuity" and "pension" wherever those terms are currently used.

New definition 17 - "Termination". We have defined termination as currently used. We also need to define termination to comply with the IRS requirement against in-service distributions.

New definition 18 - "Termination pay". The definition of termination pay is currently found in definition 19-20-101(5)(e).

New definition 19 - "Vested". The term "vested" is used regularly in the act, administrative rules, handbooks, and by staff and members but is not currently defined in statutes.

Section 6. 19-20-104 - Guarantee by state. Amendments are necessary to correct or clarify terms so that their usage complies with new and current definitions.

Section 7. 19-20-208 - Duties of employer. Subsection 8 adds the duty for employers to report, on each member retiring, any fringe benefits that have been converted to earned compensation and reported to TRS.

Section 8. 19-20-305 - Alternate payees -- family law orders. Attorneys and the courts often final family law orders unaware that the terms of the order do not comply with the statute governing payment of benefits under the Teachers' Retirement System. These amendments clarify that the terms of order relating to the payment of benefits must be approved by the board. Also the proposed amendments would allow family law orders to be filed in an out-of-state court with competent jurisdiction.

Section 9. 19-20-409 - Transfer of service credits and contributions from public employees' retirement system. This amendment is necessary to allow for payment of interest to TRS by the PERS Board on employer contributions received by them in error and subsequently transferred to TRS.

Section 10. 19-20-412 - Election to purchase additional service. Amendments clarify that the compensation used to purchase 1 full year must be based on full-time service.

Section 11. 19-20-503 - Transfer of dormant or unclaimed accounts. Accounts of deceased members and retirees are often involve only lump-sum payments and are very small but remain on the books because the heirs fail to come forward to claim the payment. This amendment, together with New Section 4 should take care of any payments due upon the death of the member.

Section 12. 19-20-602 - Annuity saving fund -- member's contribution. This amendment corrects terms so that their usage complies with the new and/or current definitions.

Section 13. 19-20-603 - Withdrawal of accumulated contributions -- options. Amendments are necessary to comply with federal regulations on restrictions against in-service distributions. Members must terminate employment and not plan to return for at least 60 days before they are eligible to withdraw their account. We are also clarifying the current IRS regulations regarding rollovers and transfers.

Section 14. 19-20-605 - Pension accumulation fund -- employer's contribution. Amendments are necessary to replace the terms "annuity" and "pension" with "retirement allowance", and to clarify that benefits are paid to retirees or their beneficiaries.

Section 15. 19-20-702 - Optional allowances. Under Optional Allowances, A, B, or C, if the retiree's designated beneficiary predeceases the retiree, the retiree's benefit will "pop-up" to the full "Normal Form" amount. Statutes do not specify if the retiree may designate a different beneficiary or select a new optional retirement allowance. These amendments will establish a reasonable time limit for nominating a new beneficiary and electing a new option. The amendments require those changes in beneficiary and optional allowance, by members who retired on or after October 1, 1993, must be made within 18 months of the death of the beneficiary.

Option "D" is replaced with "10, and 20 Year Period Certain and Life" options. Under a Period Certain and Life Option, monthly benefits are paid for the retiree's life or for the "Period Certain", whichever is greater. Currently Option D allows the Board to approve "some other benefit". This provision is rarely used and when used, generally a Period Certain and Life option is requested. Members will be better served to be made aware of these options. To comply with IRS restrictions against establishing estates instead of receiving retirement benefits, certain age restrictions must be applied.

Section 16. 19-20-703 - Payments to be monthly. Amendments are necessary to comply with federal restrictions against in-service distributions. The amendments will also codify the current practice of members postponing benefits to a later date or age 60 if they are not eligible for full benefits to avoid early retirement reductions.

Section 17. 19-20-706 - Exemption from taxation and legal process. This amendment replaces the terms "pensions and annuities" with "retirement allowances".

Section 18. 19-20-711 - Eligibility for postretirement adjustment. The Montana Supreme Court ruled that the provision of (1)(a) regarding the age 55 requirement for service retirement recipients was unconstitutional. "Member" is changed to "retiree" to comply with 19-20-304, MCA, stating that membership terminates when a member retires.

Section 19. 19-20-712 - Funding for postretirement adjustment -- reserve fund. Recent accounting changes by the Governmental Accounting Standards Board require that investments be shown in the financial statements at fair market value. These accounting changes will result in paper gains and losses as the market fluctuates, which were not intended to be recognized when 19-20-712 was enacted. In order for the system to remain actuarially unchanged, only realized investment income can be used to determine

the amount available for payment of Postretirement Adjustments (PRA). The amendments assure the calculation of PRA's remains the same as in previous years.

Section 20. 19-20-713 - Payment and amount of postretirement adjustment Amendments are necessary to replace terms so that their usage complies with new and current definitions.

Section 21. 19-20-715 - Compensation limit. The 10% cap provision has been moved to 19-20-715 from the definition section 19-20-101(5)(b). This is not a new provision.

Section 22. 19-20-801 - Eligibility for service retirement. Amendments are necessary to comply with federal restrictions against in-service distributions requiring members terminate employment before they eligible to receive benefits.

Section 23. 19-20-804 - Allowance for service retirement Amendments are necessary to comply with federal restrictions against in-service distributions requiring members have a break in service before returning to work following retirement. Retirees receiving an early retirement allowance, must be separated 30 days from their retirement effective date before returning to part-time employment with the same employer. Current law allows retirees to return to employment covered under the system in a part-time capacity as long as they do not earn more than one third of their average final compensation.

Section 24. 19-20-902 - Allowance for disability retirement Amendments are necessary to comply with federal regulations on restrictions against in-service distributions. Also, language regarding the compensation used in the calculation of average final compensation was moved from 19-20-101(8) to 19-20-902(2).

Section 25. 19-20-903 - Medical examination for disability retiree. Amendments clarify that disability benefits will be canceled if the recipient is found to no longer be disabled, and that they will be provided a hiring preference for the position they held at the time of retirement or for a comparable position that becomes available within one year of cancellation of disability retirement.

Also, amendments are necessary to replace or clarify terms and phrases so that their usage is clear and complies with new and current definitions.

Section 26. 19-20-904 - Adjustment of allowance. Amendments are necessary to replace or clarify terms so that their usage complies with new and current definitions, and to comply with federal restrictions against in-service distributions.

Subsection 19-20-904(4) has been deleted because it is not necessary since returning to active service is provided for under subsection 19-20-904(1)(a) and eligibility to participate in TRS is

covered under 19-20-905(1).

Section 27. 19-20-905 - Cancellation of allowance and restoration of membership. Amendments are necessary to clarify under what circumstances disability benefits will be canceled, to replace or clarify terms so that their usage complies with new and current definitions and to comply with federal regulations on restrictions against in-service distributions.

Section 28. 19-20-1001 - Allowance for death of member. Amendments are necessary to replace or clarify terms so that their usage complies with new and current definitions.

Section 29. 19-20-1002 - Payments upon death of retiree. Amendments are necessary to replace or clarify terms so that their usage complies with new and current definitions.

DATE 3-5-97

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB 42 HB 134 HB 74

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Tom Schneider</i>	<i>TAPEA</i>	<i>HB 74</i>	<i>X</i>	
<i>Terry Minow</i>	<i>MFT MFSE</i>	<i>HB 74</i>	<i>X</i>	
<i>Larry Lambert</i>	<i>Ruby's Reserve St. Inn</i>	<i>HB 74</i>	<i>X</i>	
<i>David Senn</i>	<i>TBS</i>	<i>HB 134</i>		
<i>Larry Sullivan</i>	<i>Dept. of Rev</i>	<i>HB 74</i>	<i>X</i>	
<i>Deborah Smith</i>	<i>MT Comm'n Cntr</i>	<i>HB 42</i>	<i>X</i> <i>as amended by House</i>	
<i>Moe Wosepka</i>	<i>Bozeman And Kalispell Chambers / Mont. Chamber of Comm</i>	<i>HB 74</i>	<i>X</i>	
<i>Mike Strand</i>	<i>Nation Independent Telecommunications System</i>	<i>HB 42</i>	<i>X</i>	
<i>Gordon Morris</i>	<i>MA Co</i>	<i>HB 74</i>	<i>✓</i>	
<i>Karen Berger</i>	<i>Leg Branch</i>	<i>HB 74</i>	<i>✓</i>	
<i>Connie L. Griffith</i>	<i>Dept of Admin</i>	<i>HB 74</i>	<i>✓</i>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 6, 1997, at 10:00 A.M., in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Bill Wilson (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 193, 2/24; HB 227, 2/24;
HB 199 2/24
Executive Action: HB 74 BCI; HB 42 BCI;
HB 134 BCIAA; HB 227 BCI;
HB 199 BCIAA

HEARING ON HB 193

Sponsor: REP. SONNY HANSON, HD 1, presented HB 193.

Proponents: None

Opponents: Richard Crofts, Commissioner of Higher Education
Larry Moreland, University of Montana Foundation
George Dennison, University of Montana
Mike Malone, Montana State University- Bozeman
Leroy Schramm, Montana Board of Regents
Bob Bashini, self
June McCray, MSU Student Body
Jeremy Fraz, ASMSU Student Body

EXECUTIVE ACTION ON HB 134

Discussion: CHAIRMAN HARGROVE noted concerns about the courts. SEN. BROOKE commented about prior cases where the retirement money was only sent to the spouse whose retirement it was. David Senn, Executive Director of the Teachers' Retirement System said the intent was not that the board wanted authority over the courts. When an order is received everyone will know what they are going to receive at the time a payment is made. {Tape: 2; Side: A; Approx. Time Count: 50.1-60.3.} A family law order is an order to divide a payment. He discussed examples of the family law orders. David Niss had amendments distributed. (EXHIBIT 4)

Motion/Vote: SEN. GAGE moved the amendment. The motion PASSED UNANIMOUSLY. SEN. BROOKE moved HB 134 BE CONCURRED IN AS AMENDED. Mr. Niss explained the administration of the Teachers' Retirement System. The question was called. The motion PASSED unanimously. Sen. Chris Christiaens will carry the bill

EXECUTIVE ACTION ON HB 227

Motion/Vote: SEN. WILSON moved HB 227 BE CONCURRED IN. The question was called. The motion carried unanimously.

EXECUTIVE ACTION ON HB 199

Discussion: David Senn discussed the need for an effective date. He said the purpose would be to include all of those bills in the current legislative session that grant immediate rule making authority. The reason why that is important is because the great majority of bills that deal with the implementation of rules of new law, it is a typical solution to the issue of when does the agency get to adopt those rules by providing for a delayed effective date of the section which allows the agency to start its rule making immediately upon signature by the Governor even though the statute being implemented by those rules might be effective July 1 or October 1 or even two years down the road. Sponsors typically want agencies to be able to give that rule making scenario right off the bat. The only other alternative is when the law becomes effective on October 1, there are no rules to implement them so the door is open.

Mr. Senn said the other amendment suggested by Sen. Wilson was to add the sponsor or the person who speaks for the bill to make sure that person receive notice. The third one was the distinction between sponsor and co-sponsor. The distinction does not appear in the statute, but does exist in both Senate and House joint rules. {Tape: 2; Side: A; Approx. Time Count: 75.4.}

Motion/Vote: SEN. GAGE moved the amendment. The motion carried unanimously. SEN. GAGE moved the bill as amended. The motion carried unanimously. SEN. WILSON will carry the bill.

Amendments to House Bill No. 134
Third Reading Copy

4
36-97
134

For the Committee on State Administration

Prepared by David S. Niss
March 6, 1997

1. Title, lines 11 and 12.

Strike: "MAY NOT" on line 11 through "APPROVED"
on line 12

Insert: "MUST CONTAIN A STATEMENT THAT THE ORDER IS SUBJECT TO
REVIEW AND APPROVAL"

2. Page 10, lines 8 and 9.

Strike: "A court" on line 8 through "board" on line 9

Insert: "Each family law order establishing a final obligation
concerning payments by the retirement system must contain a
statement that the order is subject to review and approval
by the board"

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1997

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill 134 (third reading copy -- blue), respectfully report that House Bill 134 be amended as follows and as so amended be concurred in.

Signed:

Don Hargrove
Senator Don Hargrove, Chair

That such amendments read:

1. Title, lines 11 and 12.

Strike: "MAY NOT" on line 11 through "APPROVED" on line 12

Insert: "MUST CONTAIN A STATEMENT THAT THE ORDER IS SUBJECT TO REVIEW AND APPROVAL"

2. Page 10, lines 8 and 9.

Strike: "A court" on line 8 through "board" on line 9

Insert: "Each family law order establishing a final obligation concerning payments by the retirement system must contain a statement that the order is subject to review and approval by the board"

-END-

[Signature]
SP

Amd. Coord.
Sec. of Senate

Chris Christensen
Senator Carrying Bill

501258SC.SRF

HOUSE BILL NO. 134

INTRODUCED BY J. JOHNSON, HARRINGTON, SQUIRES, HERTEL, BARTLETT, LYNCH, CHRISTIAENS
BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE
TEACHERS' RETIREMENT SYSTEM; DEFINING "TERMINATION", "TERMINATION PAY", AND "VESTED";
PROVIDING TERMINATION PAY OPTIONS; CLARIFYING THAT TEACHERS' RETIREMENT SYSTEM
PROVISIONS MUST COMPLY WITH FEDERAL TAX LAWS REGARDING QUALIFIED PLAN STATUS;
CLARIFYING THE DISTRIBUTION OF BENEFITS TO BENEFICIARIES; CLARIFYING CERTAIN DEFINITIONS;
CLARIFYING DEFINITIONS RELATED TO COMPENSATION USED TO DETERMINE BENEFITS; CLARIFYING
THAT FAMILY LAW ORDERS AFFECTING DISTRIBUTION OF BENEFITS ~~MAY NOT BE ENTERED UNLESS~~
~~APPROVED~~ MUST CONTAIN A STATEMENT THAT THE ORDER IS SUBJECT TO REVIEW AND APPROVAL
BY THE TEACHERS' RETIREMENT BOARD; GENERALLY REVISING LANGUAGE REFERRING TO ANNUITIES;
REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE PUBLIC EMPLOYEES'
RETIREMENT SYSTEM; CLARIFYING CERTAIN SERVICE PROVISIONS; CLARIFYING DISPOSITION OF
UNCLAIMED ACCOUNTS; REVISING CERTAIN WITHDRAWAL AND OPTIONAL ALLOWANCE PROVISIONS;
REVISING PAYMENT COMMENCEMENT PROVISIONS; REVISING CERTAIN DISABILITY RETIREMENT AND
REINSTATEMENT FROM DISABILITY PROVISIONS; CLARIFYING POSTRETIREMENT PROVISIONS;
AMENDING SECTIONS 19-20-101, 19-20-104, 19-20-208, 19-20-305, 19-20-409, 19-20-412, 19-20-503,
19-20-602, 19-20-603, 19-20-605, 19-20-702, 19-20-703, 19-20-706, 19-20-711, 19-20-712,
19-20-713, 19-20-715, 19-20-801, 19-20-804, 19-20-902, 19-20-903, 19-20-904, 19-20-905,
19-20-1001, AND 19-20-1002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] gives the teachers' retirement
board authority to adopt administrative rules.

The legislature finds that it is beneficial to maintain the teachers' retirement system as a qualified
plan under Internal Revenue Code regulations. Therefore, it is the intent of the legislature that statutory
provisions governing the teachers' retirement system be subject to federal tax law applicable to public

1 retirement plans. The legislature intends that the board make rules useful and necessary to ensure
2 compliance with federal law and necessary to maintain a federal tax qualified plan status.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5
6 **NEW SECTION. Section 1. Earned compensation -- part-time service.** The earned compensation
7 of a member who retired under 19-20-802 or 19-20-804 and had less than 3 consecutive years of full-time
8 service during the 5 years preceding the member's retirement is the compensation that the member would
9 have earned in the final 3 years had the member's part-time service been full-time service. To determine
10 the compensation that the member would have earned, the compensation reported must be divided by the
11 part-time service credited to the member's account.

12
13 **NEW SECTION. Section 2. Termination pay.** If a member receives termination pay at the time of
14 termination and elects to retire at that time, the member shall select one of the following options:

15 (1) The member may use termination pay in the calculation of the member's average final
16 compensation. The member and the employer shall pay contributions to the retirement system as
17 determined by the board to adequately compensate the system for the additional retirement benefit. The
18 contributions must be made at the time of termination.

19 (2) The member may use a yearly amount of termination pay added to each of the 3 consecutive
20 years' salary used in the calculation of the member's average final compensation. To determine the amount
21 of termination pay used in the calculation of average final compensation, termination pay must be divided
22 by the total number of years of creditable service to determine a yearly amount. The member and the
23 employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602
24 and 19-20-605(1).

25 (3) The member may exclude the termination pay from the average final compensation. A
26 contribution is not required of either the member or the employer, and any contributions made under
27 19-20-602 and 19-20-605 must be refunded.

28
29 **NEW SECTION. Section 3. Retaining qualified plan status -- board rulemaking authority.** If a
30 provision in this chapter conflicts with a qualification requirement in section 401 of the Internal Revenue

1 Code applicable to public retirement systems and consequent federal administrative regulations, the
2 provision is either ineffective or must be interpreted to conform to the federal qualification requirements
3 and allow the system to retain tax-deferred status. The board may adopt rules to implement this section.
4

5 NEW SECTION. **Section 4. Effect of no designation or no surviving beneficiary.** (1) If a beneficiary
6 is not designated or if no designated beneficiary survives the payment recipient, the estate of the payment
7 recipient is the beneficiary and is entitled to any lump-sum payment or retirement benefit accrued but not
8 received prior to the death of the payment recipient. If the estate would not be probated but for the amount
9 due from the retirement system, all of the amount due must be paid directly, without probate, to the
10 surviving next of kin of the deceased or to the guardians of the survivor's estate, share and share alike.

11 (2) Payment must be made in the same order in which the following groups are listed:

- 12 (a) husband or wife;
- 13 (b) children;
- 14 (c) father and mother;
- 15 (d) grandchildren;
- 16 (e) brothers and sisters; or
- 17 (f) nieces and nephews.

18 (3) A payment may not be made to a person included in any of the groups listed in subsection (2)
19 if at the date of payment there is a living person in any of the groups preceding the group of which the
20 person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon
21 a form supplied by the system, that there are no living individuals in the groups preceding the group of
22 which the person is a member and that the estate of the deceased will not be probated.

23 (4) The payment must be in full and complete discharge and acquittance of the board and system
24 on account of the member's or payment recipient's death.
25

26 **Section 5.** Section 19-20-101, MCA, is amended to read:

27 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise,
28 the following definitions apply:

29 (1) "Accumulated contributions" means the sum of all the amounts deducted from the
30 compensation of a member or paid by a member and credited to the member's individual account in the

1 annuity savings fund, together with interest. Regular interest must be computed and allowed to provide a
2 benefit at the time of retirement.

3 (2) "Actuarial equivalent" means a benefit of equal value when computed, with regular interest,
4 on the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate
5 of 8% compounded annually.

6 (3) ~~"Annuity" means the payments made to a beneficiary for life that are derived from a member's~~
7 ~~accumulated contributions.~~

8 (4) ~~"Annuity reserve" means the present value of all payments to be made on account of a~~
9 ~~member's annuity computed, with regular interest, on the basis of the mortality tables adopted by the~~
10 ~~retirement board.~~

11 (5) ~~(a)~~ "Average final compensation" means the average of ~~the~~ a member's earned compensation
12 of a member during the 3 consecutive years of full-time service or as provided under [section 1] that yield
13 the highest average and on which contributions have been made as required by 19-20-602 or 19-20-413.
14 If amounts defined in subsection (6)(b) have been converted by an employer to earned compensation for
15 all members and have been continuously reported as earned compensation in a like amount for at least the
16 5 fiscal years preceding the member's retirement, the amounts may be included in the calculation of
17 average final compensation. If amounts defined in subsection (6)(b) have been reported as earned
18 compensation for less than 5 fiscal years or if the member has been given the option to have amounts
19 reported as earned compensation, any amounts reported in the 3-year period that constitute average final
20 compensation must be included in average final compensation as provided under [section 2(2)].

21 ~~(b) In determining a member's retirement allowance under 19-20-802 or 19-20-804, the~~
22 ~~compensation for each year of the 3 years that make up the average final compensation may not be greater~~
23 ~~than 110% of the previous year's compensation included in the calculation of average final compensation~~
24 ~~or the earned compensation reported to the retirement system, whichever is less, except as provided by~~
25 ~~rule by the retirement board.~~

26 ~~(c) Earned compensation in excess of the amount specified in subsection (5)(b) is considered~~
27 ~~termination pay as provided in subsection (5)(d).~~

28 ~~(d) If the earned compensation includes any termination pay, the member shall select one of the~~
29 ~~following options:~~

30 ~~(i) use the total termination pay in the calculation of the average final compensation. The member~~

1 ~~and the employer shall pay contributions to the retirement system as are determined by the board to~~
2 ~~adequately compensate the system for the additional retirement benefit. The contributions must be made~~
3 ~~at the time the termination pay is received.~~

4 ~~(iii) use a yearly amount of termination pay added to each of the 3 consecutive years' salary used~~
5 ~~in the calculation of the average final compensation if the member has 4 or more years of service with the~~
6 ~~employer from which the termination pay was received. The amount of compensation used in the~~
7 ~~calculation of average final compensation must be divided by the total number of years of creditable service~~
8 ~~to determine a yearly amount. The member and the employer shall pay contributions on the termination pay~~
9 ~~according to the rates provided for in 19-20-602(1) and 19-20-605(1).~~

10 ~~(iii) exclude the termination pay from the average final compensation. No contribution is required~~
11 ~~of either the employer or member, and contributions made under 19-20-602 and 19-20-605 must be~~
12 ~~refunded.~~

13 ~~(e) For purposes of this subsection (5), termination pay includes any form of termination pay or~~
14 ~~any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit, or any other~~
15 ~~payment for time not worked other than compensation received while on sick leave or authorized leave of~~
16 ~~absence.~~

17 ~~(6)(4) "Beneficiary" means a person in receipt of a pension, annuity, retirement allowance, or other~~
18 ~~benefit provided by the retirement system formally designated by a member, retiree, or benefit recipient to~~
19 ~~receive a retirement allowance or payment upon the death of the member, retiree, or benefit recipient.~~

20 ~~(7)(5) "Creditable service" is that service defined by 19-20-401.~~

21 ~~(8)(6) (a) "Earned compensation" means, except as limited by 19-20-715, remuneration, exclusive~~
22 ~~of maintenance, allowance, and expenses, paid for services by a member out of funds controlled by an~~
23 ~~employer, as defined under this chapter, before any tax-deferred pretax deductions allowed under the~~
24 ~~Internal Revenue Code are deducted from the member's compensation, exclusive of maintenance,~~
25 ~~allowances, and expenses. The earned compensation is remuneration that would have been paid to a~~
26 ~~member for full-time service but was not paid to the member because of a reduction in compensation, pay,~~
27 ~~or salary due to a temporary absence, provided that the retirement system receives the contribution~~
28 ~~required by 19-20-413. The earned compensation of a member who had less than 3 consecutive years of~~
29 ~~full-time service during the 5 years preceding the member's retirement is the compensation, pay, or salary~~
30 ~~that the member would have earned had the member's part-time service been full-time service. The earned~~

~~compensation of a member who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or salary that the member would have received had the member completed the full year, except that any termination pay, as defined in subsection (5)(e), received by the member is limited to the amount actually paid and is not the amount that the member would have earned had the member completed the full year.~~

(b) Earned compensation does not mean:

(i) direct employer premium payments on behalf of members for health or dependent care expense accounts or any employer contribution for health, medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for professional membership dues; maintenance; housing; day care; or automobile, travel, lodging, or entertaining expenses; or any similar payment for any form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits; or

(iv) any noncash benefit provided by an employer to or on behalf of an employee.

(c) Earned compensation does not include lump-sum payments in respect to unused, accumulated sick or annual leave, excess leave balance payments, or bonuses or any sort of early retirement incentive or severance payment contingent upon the employee terminating employment.

(d) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or like amount as a pretax deduction is considered a fringe benefit and not earned compensation.

~~(9)(7)~~ "Employer" means the state of Montana, the trustees of a district, or any other agency or subdivision of the state that employs a person who is designated a member of the retirement system.

~~(10)(8)~~ "Full-time service" means service that is full-time and that extends over a normal academic year of at least 9 months. With respect to those members employed by the office of the superintendent of public instruction, any other state agency or institution, or the office of a county superintendent, full-time service means service that is full-time and that totals at least 9 months in any year.

~~(11)(9)~~ "Member" means a person who has an individual account in the annuity savings fund. An active member is a person included under the provisions of 19-20-302. An inactive member is a person included under the provisions of 19-20-303.

~~(12)(10)~~ "Part-time service" means service that is less than full-time or that totals less than 9 months in ~~any~~ a normal academic year. Part-time service must be credited in the proportion that the actual

1 time worked ~~bears~~ compares to full-time service.

2 ~~(13) "Pension" means the payments made to a beneficiary for life that are paid out of the pension~~
3 ~~accumulation fund.~~

4 ~~(14) "Pension reserve" means the present value of all payments to be made on account of a pension~~
5 ~~computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.~~

6 ~~(15)(11) "Prior service" means employment of the same nature as service defined in subsection (20)~~
7 ~~but rendered before September 1, 1937.~~

8 ~~(16)(12) "Regular interest" means interest at 4% per annum a year compounded annually or at such~~
9 ~~other a rate as may be set by the retirement board in accordance with 19-20-501(2).~~

10 ~~(17)(13) "Retirement allowance" means the annuity plus the pension a payment due monthly to a~~
11 ~~person who has qualified for service or disability retirement or due to a beneficiary as provided in~~
12 ~~19-20-1001.~~

13 ~~(18)(14) "Retirement board" or "board" means the retirement system's governing board provided~~
14 ~~for in 2-15-1010.~~

15 ~~(19)(15) "Retirement system" or "system" means the teachers' retirement system of the state of~~
16 ~~Montana provided for in 19-20-102.~~

17 ~~(20)(16) "Service" means the performance of instructional duties or related activities that would~~
18 ~~entitle the person to active membership in the retirement system under the provisions of 19-20-302.~~

19 ~~(17) "Termination" means that the member has severed the employment relationship with the~~
20 ~~member's employer and all, if any, payments due upon termination of employment, including but not limited~~
21 ~~to accrued sick and annual leave balances, have been paid to the member.~~

22 ~~(18) "Termination pay" means any form of termination pay made at the time of retirement or death;~~
23 ~~payments contingent on the employee terminating employment; any lump-sum payment for deferred~~
24 ~~compensation, sick leave, or accumulated vacation credit; or any other payment for time not worked other~~
25 ~~than compensation received while on sick leave or authorized leave of absence.~~

26 ~~(19) "Vested" means that a member has been credited with at least 5 full years of membership~~
27 ~~service upon which contributions have been made, as required by 19-20-602 and 19-20-605, and who has~~
28 ~~a right to a future retirement benefit."~~

29

30 **Section 6.** Section 19-20-104, MCA, is amended to read:

1 **"19-20-104. Guarantee by state.** Regular interest charges payable, the creation and maintenance
2 of reserves in the pension accumulation fund, and the maintenance of ~~annuity reserves~~ accumulated
3 contributions in the annuity ~~reserve~~ savings fund, as provided for in this chapter, and the payment of all
4 ~~annuities, pensions~~ retirement allowances, refunds, and other benefits granted under the retirement system
5 are obligations of the state of Montana."

6
7 **Section 7.** Section 19-20-208, MCA, is amended to read:

8 **"19-20-208. Duties of employer.** Each employer shall:

9 (1) pick up the contribution of each employed member ~~employed by him~~ at the rate prescribed by
10 19-20-602 and transmit the contribution each month to the ~~secretary~~ executive director of the retirement
11 board;

12 (2) ~~pay~~ transmit to the ~~secretary~~ executive director of the retirement board the employer's
13 contribution prescribed by 19-20-605, at the time that the employee contributions are transmitted ~~to the~~
14 ~~secretary~~;

15 (3) keep records and, as required by the retirement board, furnish information to the board that is
16 required in the discharge of the board's duties;

17 (4) upon the employment of a person who is required to become a member of the retirement
18 system, inform ~~him~~ the person of ~~his~~ the rights and obligations relating to the retirement system;

19 (5) whenever applicable, inform an employee of ~~his~~ the right to elect to participate in the optional
20 retirement program under Title 19, chapter 21;

21 (6) at the request of the retirement board, certify the names of all persons who are eligible for
22 membership or who are members of the retirement system; ~~and~~

23 (7) notify the retirement board of the employment of a person eligible for membership and forward
24 ~~his~~ the person's membership application to the board;

25 (8) if the employer has converted to earned compensation amounts excluded from earned
26 compensation, for each retiring member, certify to the board the amounts reported to the system in each
27 of the 5 years preceding the member's retirement."

28
29 **Section 8.** Section 19-20-305, MCA, is amended to read:

30 **"19-20-305. Alternate payees -- family law orders.** (1) A participant in a retirement system may

1 have the participant's rights modified or recognized by a family law order.

2 (2) For purposes of this section:

3 (a) "participant" means a member, retiree, or an actual or potential beneficiary, survivor, or
4 contingent annuitant of the retirement system designated pursuant to this chapter; and

5 (b) "family law order" means a certified copy of a judgment, decree, or order of a court ~~of~~ with
6 competent jurisdiction ~~under Title 40~~ concerning child support, parental support, spousal maintenance, or
7 marital property rights that includes a transfer of all or a portion of a participant's payment rights in a
8 retirement system to an alternate payee in compliance with this section.

9 (3) A family law order must identify an alternate payee by full name, current address, and social
10 security number. An alternate payee's rights and interests granted in compliance with this section are not
11 subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights
12 or interests may be modified only by a family law order amending the family law order that established the
13 right or interest.

14 (4) A family law order may not require:

15 (a) a type or form of benefit, option, or payment not available to the affected participant under the
16 appropriate retirement system; or

17 (b) an amount or duration of payment greater than that available to a participant under the
18 appropriate retirement system.

19 (5) A family law order may only provide for payment to an alternate payee as follows:

20 (a) Service retirement benefit payments or withdrawals of member contributions may be
21 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of
22 no more than the amount payable to the participant.

23 (b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate
24 payees is the monthly benefit amount that would have been payable on the date of termination of service
25 if the member had retired without disability or death.

26 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be
27 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the
28 same ratio as existing benefit payments.

29 (d) Payments must be limited to the life of the appropriate participant. The duration of payments
30 to an alternate payee may be further limited only to a specified maximum time, the life of the alternate

1 payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific
2 amount per month if the number of payments is specified. The alternate payee's rights and interests survive
3 the alternate payee's death and may be transferred by inheritance.

4 (e) The participant may be required to choose a specified form of benefit payment or designate a
5 beneficiary or contingent annuitant if the retirement system allows for that option.

6 (6) The board may assess a participant or an alternate payee for all costs of reviewing and
7 administering a family law order, including reasonable attorney fees. The board may adopt rules to
8 implement this section.

9 ~~(7) A court may not enter a family law order relating to payments by the system unless terms of~~
10 ~~the proposed order have been approved by the board~~ EACH FAMILY LAW ORDER ESTABLISHING A FINAL
11 OBLIGATION CONCERNING PAYMENTS BY THE RETIREMENT SYSTEM MUST CONTAIN A STATEMENT
12 THAT THE ORDER IS SUBJECT TO REVIEW AND APPROVAL BY THE BOARD."

13
14 **Section 9.** Section 19-20-409, MCA, is amended to read:

15 **"19-20-409. Transfer of service credits and contributions from public employees' retirement**
16 **system.** (1) An active member may at any time before retirement make a written election with the
17 retirement board to qualify in the teachers' retirement system all of the member's previous creditable
18 service in the public employees' retirement system. The amount that must be paid to the retirement system
19 to qualify this service under this section is the sum of subsections (2) and (3).

20 (2) ~~In addition to the amounts directly paid or transferred by the member under subsection (3), the~~
21 The public employees' retirement system shall transfer to the teachers' retirement system an amount equal
22 to 72% of the amount payable by the member.

23 (3) The member shall pay either directly or by transferring contributions on account with the public
24 employees' retirement system an amount equal to the member's accumulated contributions at the time that
25 active membership was terminated, plus accrued interest. Interest must be calculated from the date of
26 termination until payment is received by the retirement system, based on the interest tables in use by the
27 public employees' retirement system.

28 (4) A member who qualifies service from the public employees' retirement system in the teachers'
29 retirement system must complete 5 years of membership service in the teachers' retirement system to
30 qualify or purchase military service, out-of-state teaching service, employment while on leave, and private

1 school employment.

2 (5) The retirement board shall determine the service credits that may be transferred.

3 (6) If an active member who also has creditable service in the public employees' retirement system

4 before becoming a member of the teachers' retirement system dies before qualifying this service in the

5 teachers' retirement system and if the member's service credits from both systems, when combined, entitle

6 the member's beneficiary to a death benefit, the payment of the death benefit is the liability of the teachers'

7 retirement system. Before payment of the death benefit, the public employees' retirement board must

8 transfer to the teachers' retirement system the contributions necessary to qualify this service in the

9 teachers' retirement system as provided in subsections (2) and (3).

10 (7) If the retirement board determines that an individual's membership was erroneously classified

11 and reported to the public employees' retirement system, the member's accumulated contributions and

12 service, together with employer contributions plus interest, must be transferred to the teachers' retirement

13 system and any employee and employer contributions due as calculated in 19-20-602 and 19-20-605,

14 respectively, are the liability of the employee and the employing entity where the error occurred,

15 respectively. For the period of time that the employer contributions are held by the public employees'

16 retirement system, interest paid on employer contributions transferred under this subsection must be

17 calculated at the short-term investment pool rate earned by the board of investments in the fiscal year

18 preceding the transfer request."

19

20 **Section 10.** Section 19-20-412, MCA, is amended to read:

21 **"19-20-412. Election to purchase additional service.** (1) (a) Except as provided in subsection (3),

22 a member with 5 years or more of creditable service may make a written election with the retirement board

23 to purchase, for the purpose of calculating the member's retirement allowance, 1 year of additional service

24 for:

25 (i) each 5 years of service on which contributions have been made as required under the provisions

26 of 19-20-602; and

27 (ii) each 5 years of membership service as defined in Title 19, chapter 3, for which contributions

28 have been made as required under the provisions of 19-20-409.

29 (b) A maximum of 5 years of additional service may be purchased under this section. A part-time

30 member may purchase additional service on a prorated basis.

(2) (a) To purchase additional service under this section, a member shall contribute, in a lump-sum payment or in installments as agreed upon by the member and the retirement board, an amount equal to:

(i) the combined employer and employee rate on July 1, 1989, or the combined rate in effect at the time the member is eligible to purchase the service, whichever date is later, multiplied by the member's earned compensation for full-time service as provided in subsection (2)(b); and

(ii) interest at a rate of 8% compounded annually from July 1, 1989, or from the date at which the member is eligible to purchase the service, whichever date is later.

(b) The earned compensation used in calculating the cost of purchasing additional service under this section is:

(i) for the first year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's fifth year of service, whichever year is later;

(ii) for the second year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 10th year of service, whichever year is later;

(iii) for the third year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 15th year of service, whichever year is later;

(iv) for the fourth year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 20th year of service, whichever year is later; and

(v) for the fifth year of service purchased, the member's earned compensation for full-time service for the 1988-89 school year or for the member's 25th year of service, whichever year is later.

(3) A member who became a member prior to July 1, 1989, and who is eligible to purchase creditable service under 19-3-504, 19-3-510, 19-3-512, 19-3-513, 19-20-402, 19-20-403, 19-20-408, 19-20-410, or 19-20-411 may not purchase additional service under this section unless the member elects in writing to:

(a) waive eligibility to purchase creditable service under sections referred to in subsection (3); and

(b) apply the accumulated contributions made under sections referred to in subsection (3) to the cost of additional service purchased under this section.

(4) Additional service purchased under this section may not be used to qualify a member for service retirement."

Section 11. Section 19-20-503, MCA, is amended to read:

1 **"19-20-503. Transfer of dormant ~~savings account or unclaimed accounts~~.** (1) The retirement board
2 may, in its discretion, transfer the amount in the annuity savings account of an inactive member to the
3 pension accumulation fund if the account has been dormant for a period of 7 years. ~~No~~ A right of the
4 member may not be jeopardized by ~~such~~ the transfer, and the amount ~~shall~~ must be transferred back to the
5 member's annuity savings account upon ~~his~~ the member's request.

6 (2) Retirement benefits must be claimed within 5 years of the date of the member's death. If the
7 named beneficiary for the account or the heirs at law fail to claim and accept the benefits, the member's
8 account balance reverts to the pension trust fund."

9
10 **Section 12.** Section 19-20-602, MCA, is amended to read:

11 **"19-20-602. Annuity savings fund -- member's contribution.** The annuity savings fund is a fund
12 in which the contributions for the members to provide for their ~~annuities~~ retirement allowance or benefits
13 must be accumulated in individual accounts for each member. The normal contribution of each member is
14 7.044% of the member's earned compensation. Contributions to and payments from the annuity savings
15 fund must be made in the following manner:

16 (1) (a) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954,
17 as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable
18 by the member under this section for service rendered after June 30, 1985.

19 (b) The member's contributions picked up by the employer must be designated for all purposes of
20 the retirement system as the member's contributions, except for the determination of a tax upon a
21 distribution from the retirement system. These contributions must become part of the member's
22 accumulated contributions but must be accounted for separately from those previously accumulated.

23 (c) The member's contributions picked up by the employer must be payable from the same source
24 as is used to pay compensation to the member and must be included in the member's earned compensation
25 as defined in 19-20-101. The employer shall deduct from the member's compensation an amount equal to
26 the amount of the member's contributions picked up by the employer and remit the total of the
27 contributions to the retirement board.

28 (d) The deductions must be made notwithstanding that the minimum compensation provided by
29 law for a member may be reduced by the deductions. Each member is considered to consent to the
30 deductions prescribed by this section, and payment of salary or compensation less the deductions is a

1 complete discharge of all claims for the services rendered by the member during the period covered by the
2 payment, except as to the benefits provided by the retirement system.

3 (2) In addition to the normal contributions and subject to the approval of the retirement board, a
4 member may redeposit in the annuity savings fund, by a single payment or by an increased rate of
5 contribution, an amount equal to accumulated contributions that the member has previously withdrawn,
6 plus interest in the amount the contributions would have earned had the contributions not been withdrawn.

7 (3) The accumulated contributions of a member withdrawn by the member or paid to the member's
8 estate or to the member's designated beneficiary in event of the member's death must be paid from the
9 annuity savings fund. Upon the retirement of a member, the member's accumulated contributions must be
10 transferred from the annuity savings fund to the pension accumulation fund."

11
12 **Section 13.** Section 19-20-603, MCA, is amended to read:

13 **"19-20-603. Withdrawal of accumulated contributions -- options.** ~~Any~~ An inactive member electing
14 to do so or ~~any~~ a person whose membership terminates without a prospect or anticipation that the member
15 will return to work for an employer within 60 days of termination may withdraw the member's ~~or person's~~
16 accumulated contributions from the annuity ~~account~~ savings fund in the retirement system in accordance
17 with the following provisions:

18 (1) An inactive member under the provisions of ~~subsection (1) or (3) of 19-20-303~~ (1) or (3) may
19 elect, without right of revocation, to withdraw the member's accumulated contributions. If the member
20 does not withdraw the accumulated contributions, the member remains an inactive member of the
21 retirement system with the right to qualify for its benefits.

22 (2) Upon recovery from a disabling illness or separation from the armed forces, ~~any~~ a person
23 qualifying as an inactive member under the provisions of 19-20-303(2) may withdraw the member's
24 accumulated contributions unless the member returns to active membership.

25 (3) ~~Any~~ A person whose membership terminates under the provisions of 19-20-304(4) may
26 withdraw the person's accumulated contributions.

27 (4) Upon written request, a terminating member may have the payment of ~~the all or any portion~~
28 of the member's accumulated contributions split. The tax deferred portion of the contributions may be paid
29 directly to an individual retirement account or other rolled over or transferred into another qualified plan
30 designated by the member, ~~and the other.~~ The portion not rolled over or transferred must be paid directly

1 to the terminating member. The board shall provide forms for making the written request. The terminating
2 member is responsible for correctly designating an account or plan eligible to receive the tax-deferred
3 amount in order to continue the tax-deferred status of the amount."

4
5 **Section 14.** Section 19-20-605, MCA, is amended to read:

6 **"19-20-605. Pension accumulation fund -- employer's contribution.** The pension accumulation fund
7 is the fund in which the reserves for payment of ~~pensions and annuities~~ retirement allowances and benefits
8 must be accumulated and from which ~~pensions, annuities,~~ retirement allowances and benefits must be paid
9 to ~~or on account of beneficiaries credited with prior service~~ retirees or their beneficiaries. Contributions to
10 and payments from the pension accumulation fund must be made as follows:

11 (1) Each employer shall pay into the pension accumulation fund an amount equal to 7.47% of the
12 earned compensation of each member employed during the whole or part of the preceding payroll period.

13 (2) If the employer is a district or community college district, the trustees shall budget and pay for
14 the employer's contribution under the provisions of 20-9-501.

15 (3) If the employer is the superintendent of public instruction, a public institution of the state of
16 Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the
17 legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's
18 contribution.

19 (4) If the employer is a county, the county commissioners shall budget and pay for the employer's
20 contribution in the manner provided by law for the adoption of a county budget and for payments under
21 the budget.

22 (5) All interest and other earnings realized on the money of the retirement system ~~shall~~ must be
23 credited to the pension accumulation fund, and the amount required to allow regular interest on the annuity
24 savings fund ~~shall~~ must be transferred to that fund from the pension accumulation fund.

25 (6) ~~All pensions, annuities, and benefits must be paid from the pension accumulation fund.~~

26 (7) The retirement board may, in its discretion, transfer from the pension accumulation fund an
27 amount necessary to cover expenses of administration."

28
29 **Section 15.** Section 19-20-702, MCA, is amended to read:

30 **"19-20-702. Optional allowances.** (1) Until the first payment on account of any benefit becomes

1 normally due, any member may elect to receive one of the optional allowances described in subsection (2)
2 in lieu of the normal form of retirement allowance, which is provided for in ~~part 8 of this chapter and~~
3 19-20-902 and part 8 of this chapter. If a member dies within 30 days after retirement, the member's
4 election to receive an optional allowance is void and the member's death will be considered as that of an
5 active member.

6 (2) An optional allowance is the actuarial equivalent of the member's service retirement or disability
7 retirement allowance at the time of the member's retirement effective date and provides an allowance
8 payable to the member throughout the member's lifetime and, upon the member's death, an allowance
9 payable to the person that the member nominated by written designation, duly acknowledged and filed with
10 the retirement board at the time of the member's retirement, in accordance with one of the following
11 options:

12 (a) Option A--the optional allowance will be paid to the member throughout the member's lifetime
13 and, upon the member's death, continue throughout the lifetime of the member's designated beneficiary.

14 (b) Option B--the optional allowance will be paid to the member throughout the member's lifetime,
15 and upon the member's death, one-half of the optional allowance will be continued throughout the lifetime
16 of the member's designated beneficiary.

17 (c) Option C--the optional allowance will be paid to the member throughout the member's lifetime,
18 and upon the member's death, two-thirds of the optional allowance will be continued throughout the
19 lifetime of the member's designated beneficiary.

20 (d) ~~Option D--some other benefit will be paid either to the member or the member's surviving~~
21 ~~designated beneficiary in accordance with provisions approved by the retirement board~~ Period certain and
22 life--a retirement allowance will be paid for a certain period of time or for the member's lifetime, whichever
23 is greater.

24 (i) The member shall elect one of the following certain time periods:

25 (A) 10 years if the member is 75 years of age or younger at the time of retirement; or

26 (B) 20 years if the member is 65 years of age or younger at the time of retirement.

27 (ii) At the time of retirement, the member shall file with the board a written nomination of
28 beneficiaries to receive payments if the member dies before the end of the certain period elected. Unless
29 limited by a family law order, the nominated beneficiary may be changed by the member at any time by
30 filing with the board a written notice designating different beneficiaries.

(3) (a) Upon written request to the retirement board, a retired member whose effective date of retirement is before October 1, 1993, and who is receiving an optional retirement allowance may designate a different beneficiary, select a different option, or convert the member's optional retirement allowance to a regular retirement or disability allowance if:

(i) the original beneficiary has died; or

(ii) the member has been divorced from the original beneficiary and the original beneficiary has not been granted the right to receive the optional retirement allowance as part of the divorce settlement.

(b) Upon receipt of the request, the board shall actuarially adjust the member's monthly retirement or disability allowance to reflect the change.

(4) Effective on the first of the month following ~~receipt of notification of~~ the death of a person nominated as the designated beneficiary under subsection ~~(2)~~ (2)(a), (2)(b), or (2)(c), any optional retirement allowance that is effective after October 1, 1993, will revert to the full normal form of retirement allowance available at the time of retirement. The normal form of retirement allowance available must be increased by the value of any postretirement adjustments received by the member since the effective date of retirement. The retired member may, within 180 days 18 MONTHS of the death of the designated beneficiary, file a written application with the board to designate a different beneficiary and to select an actuarially equivalent optional allowance. The optional allowance is effective on the first day of the month following receipt of the retiree's application."

Section 16. Section 19-20-703, MCA, is amended to read:

"19-20-703. Payments to be monthly. (1) All pensions and annuities shall retirement allowances must be paid in equal monthly installments.

(2) The retirement allowance may commence:

(a) no earlier than the first day of the month following the member's termination date or on the first day of the month following the date when the member first becomes eligible, whichever date is later; or

(b) if requested by the inactive member in writing;

(i) on the first day of a later month; or

(ii) on the first day of the month following the member's 60th birthday."

Section 17. Section 19-20-706, MCA, is amended to read:

1 **"19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305, the
2 ~~pensions, annuities, retirement allowances~~ or any other benefits accrued or accruing to any person under
3 the provisions of the retirement system and the accumulated contributions and cash and securities in the
4 various funds of the retirement system are:

5 (1) exempted from any state, county, or municipal tax of the state of Montana except for:

6 (a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined
7 pursuant to 15-30-111(2)(c)(ii); or

8 (b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after
9 June 30, 1985, as provided in 19-20-602;

10 (2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or
11 equity, or any other process; and

12 (3) unassignable except as specifically provided in this chapter."
13

14 **Section 18.** Section 19-20-711, MCA, is amended to read:

15 **"19-20-711. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
16 ~~member retiree~~ or beneficiary is eligible to receive a postretirement adjustment as provided in 19-20-713
17 if ~~he~~ the retiree is receiving a:

18 (a) service retirement allowance ~~and is 55 years of age or older on or before June 30 in the year~~
19 ~~that the postretirement adjustment is made;~~ or

20 (b) disability or survivorship allowance.

21 (2) A ~~member retiree~~ or beneficiary is ineligible to receive a postretirement adjustment under
22 subsection (1) unless ~~he~~ the retiree or beneficiary has been receiving a monthly service, disability, or
23 survivorship allowance for at least 24 consecutive months on or before June 30 in the year that the
24 adjustment is made."
25

26 **Section 19.** Section 19-20-712, MCA, is amended to read:

27 **"19-20-712. Funding for postretirement adjustment -- reserve fund.** (1) At the end of each fiscal
28 year, the board shall determine the total investment income ~~earned~~ minus unrealized gains or losses on the
29 retirement fund for that fiscal year. From this amount, the board shall subtract the:

30 (a) ~~actuarial amount required to fund the retirement system for the fiscal year~~ amount equivalent

1 to the actuarially required investment yield; and

2 (b) retirement system's administrative and investment expenses for the fiscal year.

3 (2) (a) From the remainder obtained in subsection (1), the board shall calculate the amount of
4 investment income earned on that portion of the retirement fund balance representing retired members.

5 (b) The board shall deposit the amount calculated in subsection (2)(a) in a reserve fund.

6 (3) Subject to the restrictions contained in subsections (4) and (5), the board shall annually use
7 90% of the amount in the reserve fund provided for in subsection (2)(b) to pay a postretirement adjustment
8 to eligible ~~members~~ retirees or beneficiaries under 19-20-713.

9 (4) If the amount in the reserve fund is insufficient to provide an average monthly postretirement
10 adjustment of at least \$1 under 19-20-713, an adjustment may not be made in that calendar year.

11 (5) The amount available for payment of the postretirement allowance is limited to an amount that
12 would provide a percentage increase in the average service, disability, or survivorship allowance of all
13 eligible ~~members~~ retirees, when combined with the postretirement adjustment, that is equal to or less than
14 the percentage increase for the previous calendar year in the annual average consumer price index for urban
15 wage earners and workers compiled by the bureau of labor statistics, United States department of labor,
16 or its successor agency."

17

18 **Section 20.** Section 19-20-713, MCA, is amended to read:

19 **"19-20-713. Payment and amount of postretirement adjustment.** (1) Effective January 1 of each
20 year that funds are available under 19-20-712, a ~~member~~ retiree or beneficiary eligible under 19-20-711
21 shall receive a postretirement adjustment in the form of a monthly benefit payable for life.

22 (2) The board shall calculate the amount of the postretirement allowance payable to an eligible
23 ~~member~~ retiree or beneficiary by:

24 (a) dividing the amount available under 19-20-712(3) for payment of the postretirement allowance
25 by the total accumulated years of service for all eligible ~~members~~ retirees and beneficiaries;

26 (b) multiplying the quotient obtained in subsection (2)(a) by the ~~member's~~ retiree's total years of
27 service;

28 (c) dividing the product obtained in subsection (2)(b) by a factor for calculating a monthly ~~annuity~~
29 retirement allowance from actuarial tables adopted by the board; and

30 (d) applying the provisions contained in subsections (3) and (4).

1 (3) If a ~~member~~ retiree had elected to receive an optional retirement allowance, the amount of ~~his~~
2 the retiree's postretirement allowance must be adjusted by the appropriate optional factor.

3 (4) If more than one beneficiary is receiving a ~~member's~~ retiree's retirement allowance, the
4 postretirement adjustment must be divided in the same manner as the ~~member's~~ retiree's retirement
5 allowance."

6
7 **Section 21.** Section 19-20-715, MCA, is amended to read:

8 **"19-20-715. Compensation limit.** (1) Compensation in excess of the limitations set forth in section
9 401(a)(17) of the Internal Revenue Code must be disregarded for individuals who are not eligible employees.
10 The limitation on compensation for eligible employees may not be less than the amount that was allowed
11 to be taken into account under this chapter on July 1, 1993. For purposes of this section, an eligible
12 employee is an individual who was a member in the retirement system prior to July 1, 1996.

13 (2) In determining a member's retirement allowance under 19-20-802 or 19-20-804, the
14 compensation reported in each year of the 3 years that make up the average final compensation may not
15 be greater than 110% of the previous year's compensation included in the calculation of average final
16 compensation or the earned compensation reported to the retirement system, whichever is less, except as
17 provided by rule by the retirement board.

18 (3) Earned compensation in excess of the amount specified in subsection (2) is considered
19 termination pay and must be included in the calculation of average final compensation as provided in
20 [section 2]. "

21
22 **Section 22.** Section 19-20-801, MCA, is amended to read:

23 **"19-20-801. Eligibility for ~~superannuation~~ service retirement.** A member who has at least 5 full
24 years of creditable service, whose last 5 years of creditable service were in this state, and who has attained
25 the age of 60 or has been credited with full-time or part-time service in 25 or more years may retire from
26 service if ~~he~~ the member has terminated employment in all positions from which the member is eligible to
27 retire and files with the retirement board his a written application setting forth the fact of his the member's
28 retirement."

29
30 **Section 23.** Section 19-20-804, MCA, is amended to read:

1 "19-20-804. Allowance for ~~superannuation~~ service retirement. (1) Upon ~~superannuation~~
2 ~~retirement, a termination, an eligible member shall must~~ receive a retirement allowance ~~consisting of a~~
3 ~~pension which, together with an annuity, provides a retirement allowance~~ equal to one-sixtieth of his the
4 member's average final compensation, as limited by 19-20-715, multiplied by the sum of the number of
5 years of creditable service, service transferred under 19-20-409, and additional service purchased under
6 19-20-412.

7 (2) ~~Any~~ Except as provided in subsection (3), a retired member may be employed as a part-time
8 or substitute teacher in Montana and may earn, without loss of retirement benefits, an amount not to
9 exceed the greater of:

10 (a) one-third of the sum of his the member's average final compensation plus normal annual salary
11 increases for teaching personnel employed by the school district, state agency, political subdivision, or
12 university unit that employed the member at the time of retirement; or

13 (b) one-third of the median of the average final compensation for members retired during the
14 preceding fiscal year as determined by the retirement board.

15 (3) If an early-retired member under 19-20-802 is reemployed with the same employer within 30
16 days from the member's effective date of retirement or if the early-retired member is guaranteed
17 reemployment with the same employer, the member must be considered to have continued in the status
18 of an active member and not to have separated from service. Any retirement allowance payments received
19 by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and
20 the retirement allowance must be terminated."

21
22 **Section 24.** Section 19-20-902, MCA, is amended to read:

23 "19-20-902. Allowance for disability retirement. (1) Upon retirement for disability, a member must
24 receive a disability retirement allowance equal to the greater of:

25 ~~(1)(a)~~ (a) one-sixtieth of the member's average final compensation multiplied by the sum of the number
26 of years of creditable service, service transferred under 19-20-409, and additional service purchased under
27 19-20-412, ~~if the retirement allowance exceeds one-fourth of the member's average final compensation;~~
28 or

29 ~~(2)(b)~~ (b) a pension that, together with the member's annuity, provides a total retirement allowance
30 ~~equal to~~ one-fourth of the member's average final compensation.

(2) The earned compensation in the year of termination that is included in the calculation of average final compensation of a member who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or salary that the member would have received under the member's contract had the member completed the full year. Any termination pay received by the member is limited to the amount actually paid and is not the amount that the member would have earned had the member completed the full year."

Section 25. Section 19-20-903, MCA, is amended to read:

"19-20-903. Medical examination of disability retiree. (1) Once each year during the first 5 years following the retirement of a member on a disability retirement allowance and once in every 3-year period thereafter, the retirement board may require ~~and, upon the beneficiary's application, shall permit~~ a disability ~~beneficiary~~ benefit recipient who has not yet attained the age of 60 to undergo a medical examination by a physician or physicians designated by the retirement board. The examination ~~shall~~ must be made at the place of residence of the ~~beneficiary~~ benefit recipient or other place mutually agreed upon. Based on the examination, the board shall determine whether the disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements of the position held by the member when the member retired. If the board determines that the member is not incapacitated, the member's retirement benefit must be canceled. If the member disagrees with the board's determination, the member may request the board to reconsider its action. The request for reconsideration must be made in writing within 60 days after the receipt of the notice of the status change.

(2) A member whose disability retirement benefit is canceled because the board has determined that the member is no longer incapacitated must be given preference by the member's former employer for the position held at the time of retirement or for a comparable position that becomes available within 1 year of cancellation of the disability retirement. The member may agree to accept an offer of employment by an employer. Employment in any capacity by an employer terminates any right granted by this section. The fact that the former employee was retired on disability may not prejudice any right to reinstatement to duty that the former employee may have or claim to have. This section does not affect any requirement for the former employee to meet or to be able to meet professional certification and licensing standards unrelated to the previous disability, otherwise necessary for reinstatement to duty.

~~(2)(3) Should~~ If a disability ~~beneficiary~~ benefit recipient who has not yet attained the age of 60

~~refuse~~ refuses to submit to a medical examination as required in subsection (1), ~~his~~ the recipient's allowance may be discontinued until ~~his~~ withdrawal of ~~such~~ the refusal, ~~and should his.~~ If a refusal ~~continue~~ continues for 1 year, all ~~his~~ rights in and to ~~his~~ a disability pension may be revoked by the retirement board."

Section 26. Section 19-20-904, MCA, is amended to read:

"19-20-904. Adjustment of allowance. ~~(1) If~~ (1) (a) Except as provided by subsection (1)(b), if a retiree receiving a disability ~~beneficiary~~ retirement allowance is engaged in or is able to engage in a gainful occupation paying more than the difference between the ~~beneficiary's~~ retiree's retirement allowance and the ~~beneficiary's~~ retiree's average final compensation or the difference between the median salary of those members retired during the preceding fiscal year and the ~~beneficiary's~~ retiree's retirement allowance, whichever is greater, the retirement allowance must be reduced to an amount that, together with the amount earnable by the ~~beneficiary~~ retiree, is equal to the ~~beneficiary's~~ retiree's average final compensation or the median salary of those members retired during the preceding fiscal year, whichever is greater.

(b) If a disabled retiree is reemployed with the same employer within 30 days from the member's effective date of retirement or if the retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement benefit must be terminated.

(2) If the ~~beneficiary's~~ disabled retiree's earning capacity is changed later, the ~~beneficiary's~~ retirement allowance may be further modified, but the new allowance may not exceed the retirement allowance originally granted or an amount that, when added to the amount earnable by the ~~beneficiary~~ retiree, equals the ~~beneficiary's~~ retiree's average final compensation.

(3) The board may, in its discretion, require a recipient of a disability retirement allowance to annually submit an earning statement and any documentation necessary to support the earnings of the recipient.

~~(4) A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the beneficiary was retired may not become a member of the retirement system while receiving a reduced benefit."~~

1 **Section 27.** Section 19-20-905, MCA, is amended to read:

2 **"19-20-905. Cancellation of allowance and restoration of membership.** (1) ~~If a disability beneficiary~~
3 ~~under age 60 is restored to active service at a compensation not less than his average final compensation,~~
4 ~~his disabled retiree is employed full-time in a capacity that would otherwise meet the eligibility requirements~~
5 ~~of active membership, as provided under 19-20-302, the retiree's retirement allowance shall must cease~~
6 ~~and he. If the retiree is employed by an employer covered under this chapter, the retiree shall again become~~
7 ~~an active member of the retirement system. Any prior service certificate on the basis of which his the~~
8 ~~member's service was computed at the time of his the member's disability retirement shall must be restored~~
9 ~~to full force, and upon his the member's subsequent retirement, he shall the member must be credited with~~
10 ~~such the prior service and all his subsequent service as a member.~~

11 (2) ~~If he the member is restored to active service membership on or after the attainment of the age~~
12 ~~of 55 years, his pension the member's retirement allowance upon subsequent retirement may not exceed~~
13 ~~the pension retirement allowance that he the member would have received had he the member remained~~
14 ~~in service during the period of his the member's previous retirement or the sum of the pension which he~~
15 ~~retirement allowance that the member was receiving immediately prior to his the member's last restoration~~
16 ~~to service and the pension retirement allowance that he the member would have received on account of~~
17 ~~his the member's service since his the member's last restoration had he the member entered service at that~~
18 ~~time as a new member."~~

19
20 **Section 28.** Section 19-20-1001, MCA, is amended to read:

21 **"19-20-1001. Allowances for death of member.** (1) ~~If a member dies before retirement, his the~~
22 ~~member's accumulated contributions shall must be paid to his the member's estate or such to a person as~~
23 ~~he the member may have nominated by a written designation in a manner prescribed by the board and~~
24 ~~filed with the retirement board prior to his the member's death in the manner prescribed by the board.~~

25 (2) (a) ~~In lieu of benefits provided for in subsection (1), if the deceased member qualified by reason~~
26 ~~of service for a retirement benefit, the nominated beneficiary nominated by the deceased member may elect~~
27 ~~to receive a monthly life annuity retirement allowance. The monthly life annuity shall retirement allowance~~
28 ~~must be determined as prescribed in 19-20-804(1) and section 5, Chapter 549, Laws of 1981, in the same~~
29 ~~manner as if the member elected option A provided for in 19-20-702(2)(a).~~

30 (b) ~~In the event that payments made to an annuitant a recipient do not equal the amount of the~~

1 member's accumulated contributions ~~prior to before~~ before the annuitant's member's death, the difference
2 between the total ~~annuity retirement allowance~~ payments made and the amount of the accumulated
3 contributions ~~shall~~ at the time of the member's death must be paid to the beneficiary.

4 (3) If the deceased member had 5 or more years of creditable service and was an active member
5 in the state of Montana within 1 year ~~prior to his~~ before the member's death, a lump-sum death benefit of
6 \$500 is payable to ~~his~~ the member's designated beneficiary.

7 (4) If a deceased member had 5 or more years of creditable service and was an active member in
8 the state of Montana within 1 year prior to ~~his~~ the member's death, the sum of \$200 ~~per a month shall~~
9 must be paid to each minor child of the deceased member until ~~such the~~ the child reaches his 18th birthday
10 18 years of age."

11
12 **Section 29.** Section 19-20-1002, MCA, is amended to read:

13 **"19-20-1002. Payments upon death of retiree.** (1) In the event of the death of a member after
14 retirement, a death benefit of \$500 is payable to ~~his~~ the designated beneficiary.

15 (2) In the event that payments made to ~~an annuitant a benefit recipient~~ do not equal the amount
16 of the member's accumulated contributions ~~prior to before the annuitant's death member's retirement~~, the
17 difference between the total retirement allowance paid and the amount of the accumulated contributions
18 ~~shall~~ must be paid to the beneficiary.

19 (3) If a deceased member had 5 or more years of creditable service and was retired at the time of
20 ~~his~~ death, the sum of \$200 ~~per a month shall~~ must be paid to each minor child of the deceased ~~member~~
21 retiree until ~~such the~~ the child reaches his 18th birthday 18 years of age."

22
23 **NEW SECTION. Section 30. Codification instruction.** (1) [Section 1] is intended to be codified as
24 an integral part of Title 19, chapter 20, part 8, and the provisions of Title 19, chapter 20, part 8, apply to
25 [section 1].

26 (2) [Sections 2 and 4] are intended to be codified as an integral part of Title 19, chapter 20, part
27 7, and the provisions of Title 19, chapter 20, part 7, apply to [sections 2 and 4].

28 (3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 20, part 1, and the
29 provisions of Title 19, chapter 20, part 1, apply to [section 3].
30

NEW SECTION. **Section 31. Coordination instruction.** If ___ Bill No. ____ [LC 0553] is passed and approved and if it includes sections that amend 19-20-711 through 19-20-713, then [sections 18 through 20 of this act], amending 19-20-711 through 19-20-713, are void.

NEW SECTION. Section 32. Retroactive applicability. [Section 9] applies retroactively, within the meaning of 1-2-109, to all occurrences on or after January 1, 1995.

NEW SECTION. **Section 33. Effective date.** [This act] is effective on passage and approval.

-END-